

REFERENCE TITLE: flood protection districts; financing

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1289

Introduced by
Senator Flake

AN ACT

AMENDING SECTIONS 35-482, 42-18204 AND 48-2751, ARIZONA REVISED STATUTES;
AMENDING TITLE 48, CHAPTER 18, ARIZONA REVISED STATUTES, BY ADDING ARTICLE
11; RELATING TO FLOOD PROTECTION DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 35-482, Arizona Revised Statutes, is amended to
3 read:

4 35-482. Summary sale of delinquent property

5 A. As a cumulative remedy, if any installment is delinquent, the
6 governing body may order the summary sale of the property as provided in this
7 section.

8 B. The order of the governing body shall identify the property and
9 shall state the amount of the delinquent installments for which the property
10 is to be sold.

11 C. Notice of such order shall be mailed to the owners of the property
12 to be sold as their names and addresses appear on the last equalized tax roll
13 or as filed with the superintendent or as known to the clerk, within twenty
14 days of such order.

15 D. ~~The provisions of,~~ In the case of a municipality, section 48-601,
16 section 48-603, subsection A, section 48-604, section 48-605, subsections A
17 and B, and sections 48-606 and 48-607, and in the case of a district
18 INCLUDING A FLOOD PROTECTION DISTRICT, section 48-939, section 48-941,
19 subsection A, section 48-942, section 48-943, subsections A and B, and
20 sections 48-944 and 48-945, shall be applicable, except that the list of
21 assessments of delinquent property ordered sold shall be published within
22 twenty days of the order for sale, the notice appended to same shall make no
23 provision for declaring the whole amount of the assessment due, redemption
24 may be had prior to sale by paying the delinquent amounts, together with
25 interest, penalties and charges then due, and the amounts for which property
26 is sold shall include, in addition to interest and penalties, the delinquent
27 installments and charges for costs of the tax delinquency and summary sale
28 proceedings.

29 E. The purchaser at a summary sale ~~shall~~, as to assessments, SHALL
30 take the property subject to all unpaid installments, interest and penalties
31 under the same proceeding, to all public improvement assessments and
32 installments which shall not be subordinate thereto, and to any contingent or
33 supplemental obligations for deficiencies.

34 F. ON THE SUMMARY SALE OF A LOT OR PARCEL SUBJECT TO AN ASSESSMENT
35 LIEN LEVIED BY A FLOOD PROTECTION DISTRICT, IF THERE ARE NO OFFERS TO
36 PURCHASE THE ASSESSMENT LIEN, THE LOT OR PARCEL SHALL BE STRUCK OFF TO THE
37 MUNICIPALITY OR DISTRICT WITHOUT ANY PAYMENT BEING MADE BY THE FLOOD
38 PROTECTION DISTRICT, AND THE DISTRICT SHALL BE DEEMED THE PURCHASER AND SHALL
39 BE VESTED WITH ALL REMEDIES THAT A PURCHASER AT THE SALE WOULD HAVE OBTAINED.
40 IN ADDITION, THE DISTRICT OR MUNICIPALITY MAY BRING A JUDICIAL ACTION TO
41 FORECLOSE THE DELINQUENT ASSESSMENT LIEN AT ANY TIME AFTER IT BECOMES THE
42 PURCHASER. SUCH ACTION SHALL BE FILED IN THE SUPERIOR COURT IN THE COUNTY IN
43 WHICH THE DISTRICT AND THE ASSESSED LOT OR PARCEL ARE LOCATED, AND SHALL BE
44 PROSECUTED BY THE DISTRICT IN THE SAME MANNER AND WITH THE SAME RESULTS AS
45 THE FORECLOSURE OF A MORTGAGE OR OTHER LIEN ON REAL PROPERTY. THIS

1 SUBSECTION SHALL NOT BE CONSTRUED TO CHANGE THE PRIORITY OF THE ASSESSMENT
2 LIEN LEVIED BY A FLOOD PROTECTION DISTRICT, AND SUCH A LIEN SHALL REMAIN A
3 FIRST LIEN, SUBJECT ONLY TO THE LIEN FOR GENERAL TAXES.

4 G. THIS SECTION APPLIES TO A FLOOD PROTECTION DISTRICT THAT LEVIES
5 ASSESSMENTS PURSUANT TO TITLE 48, CHAPTER 18, ARTICLE 11.

6 Sec. 2. Section 42-18204, Arizona Revised Statutes, is amended to
7 read:

8 42-18204. Judgment foreclosing right to redeem; effect

9 A. In an action to foreclose the right to redeem, if the court finds
10 that the sale is valid, ~~and~~ and that the tax lien has not been redeemed, the
11 court shall enter judgment:

12 1. Foreclosing the right of the defendant to redeem.

13 2. Directing the county treasurer to expeditiously execute and deliver
14 to the party in whose favor judgment is entered, including the state, a deed
15 conveying the property described in the certificate of purchase.

16 B. After entering judgment the parties whose rights to redeem the tax
17 lien are thereby foreclosed have no further legal or equitable right, title
18 or interest in the property subject to the right of appeal and stay of
19 execution as in other civil actions.

20 C. The foreclosure of the right to redeem does not extinguish any
21 easement on or appurtenant to the property.

22 D. The foreclosure of the right to redeem does not extinguish any lien
23 for an assessment levied pursuant to title 48, chapter 4, 6, ~~or~~ 14 OR 18, or
24 section 9-276.

25 Sec. 3. Section 48-2751, Arizona Revised Statutes, is amended to read:

26 48-2751. Bond election; results

27 A. For the purpose of constructing the necessary conduits, drains,
28 sluices, water-gates, pumps, pumping plants, embankments and any and all
29 other works and appliances necessary for the drainage of the lands of the
30 district, acquiring the necessary property and rights therefor and otherwise
31 carrying out this chapter, the board of directors of the district ~~shall~~, as
32 soon after the district has been organized as is practicable, and thereafter
33 when the construction fund has been exhausted and it is necessary to raise
34 additional money for such purposes, SHALL estimate and determine the amount
35 of money necessary to be raised therefor. IF THE DISTRICT IS A FLOOD
36 PROTECTION DISTRICT, THE ESTIMATE AND DETERMINATION SHALL BE FOR THE PURPOSE
37 OF CONSTRUCTING, RECONSTRUCTING, REPLACING, RENOVATING OR REPAIRING DAMS,
38 DIVERSION WORKS, TUNNELS, EXCAVATIONS, DITCHES, DRAINS, CONDUITS, CHANNELS,
39 OUTLETS AND OUTFALLS OF EVERY CHARACTER, AND MACHINERY, APPARATUS, EQUIPMENT
40 AND ALL APPLIANCES AND STRUCTURES NECESSARY OR INCIDENTAL TO THE
41 CONSTRUCTION, INSTALLATION OR OPERATION OF A COMPLETE FLOOD PROTECTION
42 SYSTEM.

43 B. The board shall immediately call an election at which shall be
44 submitted to the electors of the district the question of whether or not the
45 bonds of the district shall be issued in the amount so determined. The

1 election FOR A DRAINAGE DISTRICT shall be held on the first Tuesday following
2 the first Monday in November as prescribed by section 16-204, subsection B,
3 paragraph 1, subdivision (d). THE ELECTION FOR A FLOOD PROTECTION DISTRICT
4 MAY BE HELD EITHER ON THE FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER
5 AND CONDUCTED IN THE SAME MANNER AS STATE AND COUNTY ELECTIONS, OR ON ANY
6 DATE IF HELD AS A MAIL BALLOT ELECTION AS PROVIDED IN TITLE 16, CHAPTER 4,
7 ARTICLE 8.1.

8 C. Notice of the election shall be given by posting notice thereof in
9 three public places in each election precinct of the district, or if the
10 district is not divided into divisions, in three public places in the
11 district, for at least twenty days, and by publication of the notice in a
12 newspaper published in the county in which the office of the board of
13 directors is located, once a week for at least two successive weeks. The
14 notice shall specify the time of holding the election, the amount of bonds
15 proposed to be issued, the denominations thereof and the maximum rate of
16 interest which the bonds shall bear.

17 D. The election shall be held and the results thereof determined and
18 declared in all respects as nearly as practicable in conformity with article
19 4 of this chapter governing the election of directors. No informality in
20 conducting the election shall invalidate it if the election has been
21 otherwise fairly conducted.

22 E. At the election the ballots shall contain the words, "bonds--yes"
23 and "bonds--no." If a majority of the votes cast at the election ~~is~~ ARE
24 "bonds--yes," the board of directors shall cause the bonds to be issued. If
25 a majority of the votes cast at the election ~~is~~ ARE "bonds--no," the result
26 of the election shall be declared by the board of directors and entered on
27 its record, and at any time thereafter when a petition signed by one fourth
28 or more of the qualified electors of the district is presented to the board
29 of directors, the board shall record such presentation in its minutes and
30 shall thereupon again submit such question to the electors of the district in
31 the same manner and with like effect as at the previous election.

32 Sec. 4. Title 48, chapter 18, Arizona Revised Statutes, is amended by
33 adding article 11, to read:

34 ARTICLE 11. FINANCING FLOOD PROTECTION FACILITIES

35 48-2831. Definitions

36 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 37 1. "ACRE" MEANS ONE ACRE OF UNSUBDIVIDED LAND.
- 38 2. "ASSESSMENT" OR "ASSESSMENT ROLL" MEANS A SPECIAL ASSESSMENT MADE
39 UNDER THIS ARTICLE.
- 40 3. "BLOCK" MEANS A PARCEL OF LAND, WHETHER REGULAR OR IRREGULAR, THAT
41 IS BOUNDED BY STREETS, OR BY ONE OR MORE STREETS AND BY ONE OR MORE BOUNDARY
42 LINES OF THE FLOOD PROTECTION DISTRICT.
- 43 4. "BOARD" MEANS THE BOARD OF DIRECTORS OF THE DISTRICT.
- 44 5. "CLERK" OR "SECRETARY" MEANS A MEMBER OF THE BOARD OR SUCH OTHER
45 PERSON AS MAY BE DESIGNATED BY THE BOARD TO FUNCTION AS A CLERK OR SECRETARY.

1 6. "CONTRACTOR" MEANS A CONTRACTOR, OR A PERSONAL REPRESENTATIVE OR
2 ASSIGNEE OF A CONTRACTOR, AND ANY PERSON OR ENTITY PROCURED PURSUANT TO TITLE
3 34, CHAPTER 6, ARTICLE 1.

4 7. "DELINQUENCY" MEANS DELINQUENCY IN THE PAYMENT OF AN ASSESSMENT
5 UNDER THIS ARTICLE.

6 8. "ENGINEER" MEANS A PERSON WHO, UNDER ANY OFFICIAL TITLE, IS THE
7 CIVIL ENGINEER OR SURVEYOR OF THE DISTRICT OR THE PERSON APPOINTED OR
8 EMPLOYED BY THE BOARD TO PERFORM THE DUTIES REQUIRED OF AN ENGINEER UNDER
9 THIS ARTICLE.

10 9. "FLOOD PROTECTION FACILITY" MEANS DAMS, LEVIES, DIVERSION WORKS,
11 TUNNELS, EXCAVATIONS, DITCHES, DRAINS, CONDUITS, CHANNELS, OUTLETS AND
12 OUTFALLS OF EVERY CHARACTER, AND MACHINERY, APPARATUS, EQUIPMENT AND ALL
13 APPLIANCES AND STRUCTURES NECESSARY OR INCIDENTAL TO THE CONSTRUCTION,
14 INSTALLATION OR OPERATION OF A COMPLETE FLOOD PROTECTION SYSTEM.

15 10. "IMPROVEMENT BOND" MEANS A BOND ISSUED UNDER THIS ARTICLE.

16 11. "LOT" MEANS ANY PORTION, PIECE, PARCEL OR SUBDIVISION OF LAND OR
17 PROPERTY.

18 12. "OWNER" MEANS THE PERSON WHO, ON THE DAY THE ACTION OR PROCEEDING
19 IS BEGUN OR A NOTICE IS GIVEN, POSSESSES LEGAL TITLE TO THE LOT BY DEED
20 RECORDED IN THE COUNTY RECORDER'S OFFICE OR THE PERSON WHO IS IN POSSESSION
21 OF THE LOT UNDER CLAIM OF TITLE OR EXERCISING ACTS OF OWNERSHIP OVER THE LOT
22 FOR THE PERSON OR AS THE PERSONAL REPRESENTATIVE OF THE OWNER.

23 13. "PARCEL" MEANS AN UNSUBDIVIDED PARCEL OF LAND THAT IS LARGER THAN
24 AN ACRE.

25 14. "TREASURER" MEANS THE TREASURER OF THE COUNTY IN WHICH THE DISTRICT
26 IS LOCATED.

27 15. "WORK" OR "IMPROVEMENT" MEANS THE CONSTRUCTION, RECONSTRUCTION,
28 REPLACEMENT, RENOVATION AND REPAIR OF ALL OR PART OF A FLOOD PROTECTION
29 FACILITY.

30 48-2832. Authorization

31 IN ADDITION TO THE POWERS GRANTED TO THE BOARD OF A FLOOD PROTECTION
32 DISTRICT AS PROVIDED IN ARTICLE 10 OF THIS CHAPTER, THE BOARD MAY EXERCISE
33 THE POWERS SET FORTH IN THIS ARTICLE TO CONSTRUCT, RECONSTRUCT, REPLACE,
34 RENOVATE, REPAIR OR ACQUIRE FLOOD PROTECTION FACILITIES AS THE BOARD MAY DEEM
35 NECESSARY.

36 48-2833. Purposes for which public improvements may be
37 undertaken; powers incidental to public improvements

38 A. IF THE PUBLIC INTEREST OR CONVENIENCE REQUIRES, THE BOARD MAY ORDER
39 THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, REPLACEMENT, RENOVATION,
40 REPAIR, OPERATION OR MAINTENANCE OF FLOOD PROTECTION FACILITIES AND
41 APPURTENANCES IN, UNDER, OVER OR THROUGH ANY STREET, OR ANY PUBLIC LAND IN
42 THE DISTRICT OR ANY RIGHT-OF-WAY GRANTED OR OBTAINED FOR SUCH PURPOSE, EITHER
43 IN OR OUTSIDE OF THE LIMITS OF THE DISTRICT, AND THE CONSTRUCTION,
44 RECONSTRUCTION OR REPAIR OF ANY WORK INCIDENTAL TO OR CONNECTED WITH THE
45 IMPROVEMENTS AUTHORIZED BY THIS ARTICLE.

1 B. IN ADDITION TO ALL POWERS SPECIFICALLY GRANTED BY OR REASONABLY
2 INFERRED UNDER THIS ARTICLE, DISTRICTS, ACTING THROUGH THEIR BOARDS, MAY:

3 1. JOIN WITH CITIES OR TOWNS, ANY OTHER IMPROVEMENT DISTRICT, FLOOD
4 PROTECTION DISTRICT, FLOOD CONTROL DISTRICT, COMMUNITY FACILITIES DISTRICT OR
5 TAX LEVYING PUBLIC IMPROVEMENT DISTRICT, THIS STATE OR ANY OF ITS DEPARTMENTS
6 OR AGENCIES, OR THE FEDERAL GOVERNMENT OR ANY OF ITS DEPARTMENTS, AGENCIES OR
7 INSTRUMENTALITIES IN CONSTRUCTING, OPERATING OR MAINTAINING IMPROVEMENTS
8 AUTHORIZED BY THIS ARTICLE.

9 2. ACCEPT FROM PRIVATE PERSONS, THIS STATE OR THE FEDERAL GOVERNMENT,
10 OR ANY AGENCY, DEPARTMENT OR INSTRUMENTALITY OF THIS STATE OR THE FEDERAL
11 GOVERNMENT, OR BOTH, GRANTS FOR OR IN AID OF THE CONSTRUCTION OF ANY OF THE
12 IMPROVEMENTS AUTHORIZED BY THIS SECTION AND ENTER INTO CONTRACTS WITH THIS
13 STATE OR THE FEDERAL GOVERNMENT, OR ANY AGENCY, DEPARTMENT OR INSTRUMENTALITY
14 OF THIS STATE OR THE FEDERAL GOVERNMENT, OR BOTH, FOR THE CONSTRUCTION OR
15 SUPERVISION OF CONSTRUCTION BY THIS STATE OR THE FEDERAL GOVERNMENT, OR ANY
16 AGENCY, DEPARTMENT OR INSTRUMENTALITY OF THIS STATE OR THE FEDERAL
17 GOVERNMENT, OR BOTH, OF ANY SUCH IMPROVEMENTS, ACCORDING TO THE PLANS,
18 SPECIFICATIONS, RULES AND REGULATIONS OF THIS STATE OR THE FEDERAL
19 GOVERNMENT, OR ANY AGENCY, DEPARTMENT OR INSTRUMENTALITY OF THIS STATE OR THE
20 FEDERAL GOVERNMENT, OR BOTH. THE DISTRICT RESERVES THE RIGHT TO ASSESS
21 AGAINST THE PROPERTY BENEFITED BY THE IMPROVEMENT, AND LOCATED IN THE
22 DISTRICT, THAT PORTION OF THE COST OF THE IMPROVEMENT THAT DOES NOT QUALIFY
23 FOR AID UNDER ANY STATE OR FEDERAL GRANT.

24 48-2834. Resolution of intention to order improvement

25 A. BEFORE ORDERING AN IMPROVEMENT AUTHORIZED BY THIS ARTICLE, THE
26 BOARD SHALL ADOPT A RESOLUTION OF INTENTION TO ORDER IMPROVEMENT THAT BRIEFLY
27 DESCRIBES THE IMPROVEMENT AND ITS LOCATION. PURSUANT TO THE RESOLUTION AND
28 THE SUBSEQUENT PROCEEDINGS, ONE OR MORE FLOOD PROTECTION FACILITIES MAY BE
29 CONSTRUCTED AND SHALL CONSTITUTE ONE IMPROVEMENT AND MAY BE CONSTRUCTED UNDER
30 ONE OR MORE CONTRACTS.

31 B. THE BOARD MAY ORDER THE EXPENSE OF THE IMPROVEMENT CHARGEABLE ON AN
32 ASSESSMENT DISTRICT IN THE FLOOD PROTECTION DISTRICT. THE BOARD SHALL
33 DESCRIBE THE EXTENT OF THE ASSESSMENT DISTRICT IN GENERAL TERMS IN ITS
34 RESOLUTION OF INTENTION BY REFERENCE TO STREET LINES OR BLOCK NUMBERS OR BY
35 DESIGNATING ITS EXTERIOR BOUNDARIES BY THEIR COURSES AND DISTANCES FROM THE
36 STREET OR STREETS LOCATED WHERE THE IMPROVEMENT IS PROPOSED, OR MAY REFER TO
37 A MAP THAT IS EITHER ATTACHED TO THE RESOLUTION OF INTENTION OR ON FILE IN
38 THE OFFICE OF THE FLOOD PROTECTION DISTRICT AND THAT SHOWS THE EXTERIOR
39 BOUNDARY LINES OF THE ASSESSMENT DISTRICT AND CONTAINS SUCH DETAILS AS WILL
40 SHOW THE LOCATION OF THE PROPOSED FLOOD PROTECTION FACILITY. IF THE
41 RESOLUTION OF INTENTION REFERENCES A MAP, A COPY OF THE MAP SHALL BE ATTACHED
42 TO THE NOTICE OF THE PASSAGE OF THE RESOLUTION OF INTENTION.

43 48-2835. Preliminary plans

44 BEFORE THE BOARD ADOPTS THE RESOLUTION OF INTENTION PURSUANT TO SECTION
45 48-2834, THE ENGINEER SHALL PREPARE PRELIMINARY PLANS, SPECIFICATIONS AND

1 ESTIMATES OF THE COST AND EXPENSES OF THE IMPROVEMENT AND SHALL FILE THESE
2 WITH THE CLERK. IF THE BOARD ORDERS THE WORK OR IMPROVEMENT, AS PROVIDED IN
3 THIS ARTICLE, FINAL PLANS AND SPECIFICATIONS SHALL BE FILED BEFORE EITHER:

4 1. INVITING PROPOSALS FOR THE CONSTRUCTION OF THE PROPOSED FLOOD
5 PROTECTION FACILITY.

6 2. PROCURING CONSTRUCTION SERVICES PURSUANT TO TITLE 34, CHAPTER 6,
7 ARTICLE 1.

8 48-2836. Notice of intent to construct and to levy assessment

9 THE BOARD SHALL SEND TO EACH PROPERTY OWNER WHOSE PROPERTY MAY BE
10 ASSESSED A NOTICE OF THE PASSAGE OF THE RESOLUTION OF INTENTION PURSUANT TO
11 SECTION 48-2834. THE NOTICE SHALL INCLUDE A BRIEF DESCRIPTION OF THE
12 PROPOSED IMPROVEMENT AND A STATEMENT THAT THE BOARD PROPOSES TO LEVY AN
13 ASSESSMENT TO PAY ALL OR A PORTION OF THE COSTS AND EXPENSES OF SUCH A FLOOD
14 PROTECTION FACILITY, AS APPLICABLE. THE NOTICE SHALL BE SENT BY UNITED
15 STATES MAIL TO EACH PERSON NAMED AS AN OWNER OF PROPERTY THAT MAY BE SUBJECT
16 TO ASSESSMENT AS SHOWN ON THE MOST RECENT EQUALIZED PROPERTY TAX ROLL.

17 48-2837. Objection to extent of assessment district; hearing;
18 modified assessment district; special action

19 A. IF THE COST OF THE PROPOSED FLOOD PROTECTION FACILITY IS MADE
20 CHARGEABLE ON AN ASSESSMENT DISTRICT, OBJECTIONS TO THE EXTENT OF THE
21 DISTRICT TO BE ASSESSED TO PAY THE EXPENSES OF THE IMPROVEMENT MAY BE MADE BY
22 AN OWNER IN THE PROPOSED ASSESSMENT DISTRICT WITHIN TWENTY DAYS AFTER THE
23 DATE THE NOTICE OF THE PASSAGE OF THE RESOLUTION OF INTENTION IS MAILED
24 PURSUANT TO SECTION 48-2836. THE OBJECTIONS SHALL SHOW THE COUNTY ASSESSOR'S
25 PARCEL NUMBER OF EACH PARCEL OF LAND OWNED BY THE OBJECTOR.

26 B. IF AN OBJECTION TO THE EXTENT OF THE PROPOSED ASSESSMENT DISTRICT
27 HAS BEEN FILED, THE BOARD SHALL FIX A TIME FOR HEARING THE OBJECTION. AT
28 LEAST TEN DAYS BEFORE THE HEARING, THE BOARD SHALL NOTIFY THE OBJECTORS BY
29 MAIL, AT THE ADDRESS GIVEN BY EACH OBJECTOR, OF THE DATE AND LOCATION OF THE
30 HEARING.

31 C. AT THE HEARING, WHICH MAY BE ADJOURNED, THE BOARD SHALL HEAR AND
32 PASS ON THE OBJECTIONS, AND ITS DECISION SHALL BE FINAL AND CONCLUSIVE. THE
33 BOARD MAY MODIFY THE EXTENT OF THE PROPOSED ASSESSMENT DISTRICT TO REMOVE THE
34 OBJECTOR'S LAND FROM THE ASSESSMENT DISTRICT. IF THE BOARD DETERMINES THAT
35 THE OBJECTOR'S LAND WILL NOT BENEFIT FROM THE PROPOSED FLOOD PROTECTION
36 FACILITY, THE OBJECTOR'S LAND MAY BE EXCLUDED FROM THE ASSESSMENT DISTRICT,
37 AND THE BOARD MAY ORDER THE WORK OR IMPROVEMENT AND ASSESS THE COSTS ON THE
38 REMAINING LAND IN THE ASSESSMENT DISTRICT. IF THE BOARD DETERMINES THAT
39 OTHER LAND IN THE FLOOD PROTECTION DISTRICT SHOULD BE INCLUDED IN THE
40 ASSESSMENT DISTRICT, THE BOARD SHALL ADOPT A NEW RESOLUTION OF INTENTION THAT
41 CONTAINS A DESCRIPTION OF THE MODIFIED DISTRICT AND SHALL SEND NOTICE OF THE
42 ADOPTION OF THE NEW RESOLUTION TO EACH PROPERTY OWNER AS REQUIRED FOR AN
43 ORIGINAL RESOLUTION OF INTENTION PURSUANT TO SECTION 48-2836.

44 D. A PROPERTY OWNER WHO IS DAMAGED OR OTHERWISE AGGRIEVED BY A
45 DECISION OF THE BOARD UNDER THIS SECTION MAY HAVE THE DECISION REVIEWED BY

1 FILING A SPECIAL ACTION IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE
2 DISTRICT IS LOCATED WITHIN THIRTY DAYS AFTER THE BOARD'S DECISION. IF THE
3 MINUTES OF THE MEETING OF THE BOARD AT WHICH THE ACTION WAS TAKEN SHOW THAT
4 THE OBJECTOR APPEARED AT THE MEETING, THE THIRTY DAY PERIOD SHALL BEGIN ON
5 THE DAY FOLLOWING THE DECISION. IF THE MINUTES SHOW THAT THE OBJECTOR WAS
6 NOT PRESENT, THE THIRTY DAY PERIOD BEGINS FIVE DAYS AFTER THE BOARD MAILED
7 WRITTEN NOTICE OF THE BOARD'S ACTION WITH RESPECT TO THAT OBJECTION TO THE
8 AFFECTED OBJECTOR. IF NO SPECIAL ACTION IS FILED, THE ACTION OF THE BOARD IN
9 SETTING THE BOUNDARIES OF THE ASSESSMENT DISTRICT IS DEEMED FINAL AND
10 CONCLUSIVE, AND THEREAFTER NO SUIT OF ANY NATURE MAY BE BROUGHT THAT IN ANY
11 MANNER CONTESTS THE ACTION. FAILURE TO OBJECT TO THE EXTENT OF THE
12 ASSESSMENT DISTRICT IS DEEMED A WAIVER OF THE OBJECTOR'S RIGHT TO OBJECT, AND
13 NO SUIT OR ACTION MAY THEREAFTER BE INSTITUTED CONTESTING THE BOARD'S
14 DETERMINATION TO ORDER THE CONSTRUCTION OF THE FLOOD PROTECTION FACILITY
15 DESCRIBED IN THE RESOLUTION OF INTENTION.

16 48-2838. Resolution ordering improvement; notice; proposals;
17 alternative procurement methods

18 A. THE BOARD MAY ORDER BY RESOLUTION THE CONSTRUCTION OR ACQUISITION
19 OF THE PROPOSED FLOOD PROTECTION FACILITY DESCRIBED IN THE RESOLUTION OF
20 INTENTION IF:

21 1. NO OBJECTIONS AS TO THE EXTENT OF THE PROPOSED ASSESSMENT DISTRICT
22 HAVE BEEN FILED WITHIN THE PRESCRIBED TIME.

23 2. IF ANY OBJECTIONS TO THE EXTENT OF THE PROPOSED ASSESSMENT DISTRICT
24 HAVE BEEN HEARD AND DENIED, THE BOARD FINDS THAT NO ACTION REQUESTING REVIEW
25 OF THE BOARD'S DECISION IS PENDING OR ALL ACTIONS FOR REVIEW OF THE BOARD'S
26 DECISION HAVE BEEN FINALLY RESOLVED IN FAVOR OF THE BOARD'S DECISION.

27 B. THE RESOLUTION ORDERING THE CONSTRUCTION OR ACQUISITION OF THE
28 PROPOSED FLOOD PROTECTION FACILITY DESCRIBED IN THE RESOLUTION OF INTENTION
29 NEED NOT FULLY DESCRIBE THE IMPROVEMENT OR THE EXTENT OF THE ASSESSMENT
30 DISTRICT BUT MAY REFER TO THE RESOLUTION OF INTENTION FOR THE DESCRIPTION.

31 C. IF THE BOARD DETERMINES THAT SEALED PROPOSALS SHOULD BE INVITED FOR
32 THE CONSTRUCTION OR ACQUISITION OF THE PROPOSED FLOOD PROTECTION FACILITY
33 DESCRIBED IN THE RESOLUTION OF INTENTION, THE BOARD SHALL PUBLISH TWICE IN
34 ONE OR MORE DAILY NEWSPAPERS OR ONCE IN A WEEKLY OR SEMI-WEEKLY NEWSPAPER OF
35 GENERAL CIRCULATION IN THE FLOOD PROTECTION DISTRICT A NOTICE OF THE PASSAGE
36 OF THE RESOLUTION ORDERING THE IMPROVEMENT AND INVITING SEALED PROPOSALS FROM
37 PERSONS INTERESTED IN CONSTRUCTING THE IMPROVEMENT. THE BOARD SHALL POST A
38 COPY OF THE NOTICE FOR FIVE DAYS ON OR NEAR THE DOOR OF THE MEETING PLACE OF
39 THE BOARD. THE NOTICE SHALL STATE THE TIME WITHIN WHICH BID PROPOSALS MAY BE
40 FILED WITH THE CLERK, WHICH SHALL BE AT LEAST TEN DAYS AFTER THE DATE OF THE
41 FIRST PUBLICATION OF THE NOTICE.

42 D. IF THE BOARD DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE
43 DISTRICT TO PROCURE CONSTRUCTION SERVICES THROUGH ANY METHOD DESCRIBED IN
44 SECTION 34-602, SECTION 48-2841 DOES NOT APPLY, AND THE BOARD SHALL PROCURE
45 SUCH CONSTRUCTION SERVICES AS PRESCRIBED IN TITLE 34, CHAPTER 6, ARTICLE 1.

1 IF THE BOARD DETERMINES THAT THE CONTRACTING SERVICES SHOULD BE PROCURED AS
2 PRESCRIBED IN TITLE 34, CHAPTER 6, ARTICLE 1, IT SHALL PUBLISH A NOTICE OF
3 THE PASSAGE OF THE RESOLUTION ORDERING THE IMPROVEMENT AND STATING THAT THE
4 CONTRACTING SERVICES WILL BE PROCURED AS PRESCRIBED IN TITLE 34, CHAPTER 6,
5 ARTICLE 1.

6 48-2839. Assessment of public property

7 A. IF A LOT, ACRE OR PARCEL BELONGING TO THE UNITED STATES, AN INDIAN
8 TRIBE OR COMMUNITY, THIS STATE, A COUNTY, CITY OR SCHOOL DISTRICT OR ANY
9 OTHER POLITICAL SUBDIVISION OR INSTITUTION OF THIS STATE OR A COUNTY IS
10 INCLUDED IN THE ASSESSMENT DISTRICT, THE BOARD, IN THE RESOLUTION OF
11 INTENTION, SHALL DECLARE WHETHER THE LOT, ACRE OR PARCEL SHALL BE OMITTED
12 FROM THE ASSESSMENT TO BE MADE.

13 B. IF A LOT, ACRE OR PARCEL IS OMITTED FROM THE ASSESSMENT PURSUANT TO
14 SUBSECTION A, THE TOTAL EXPENSES OF ALL WORK DONE SHALL BE ASSESSED AGAINST
15 THE REMAINING LOTS, ACRES OR PARCELS FRONTING ON THE IMPROVEMENT OR LYING IN
16 THE ASSESSMENT DISTRICT, WITHOUT REGARD TO THE OMITTED LOT, ACRE OR PARCEL.

17 C. IF THE BOARD DECLARES THE LOT, ACRE OR PARCEL TO BE INCLUDED IN THE
18 ASSESSMENT OR IF NO DECLARATION IS MADE WITH RESPECT TO THE LOT, ACRE OR
19 PARCEL, THE FLOOD PROTECTION DISTRICT IS LIABLE FOR AND SHALL PAY THE AMOUNT
20 ASSESSED AGAINST THE LOT, ACRE OR PARCEL. THE AMOUNT OF THE ASSESSMENT
21 LEVIED AGAINST THE LOT, ACRE OR PARCEL MAY BE INCLUDED IN ANY BONDS ISSUED
22 FOR THE IMPROVEMENT, AND, IF SO INCLUDED, THE ASSESSMENTS BEAR THE SAME
23 INTEREST AND ARE PAYABLE BY THE FLOOD PROTECTION DISTRICT IN INSTALLMENTS AS
24 ASSESSMENTS AGAINST THE PROPERTY OF PRIVATE PERSONS.

25 D. THE FLOOD PROTECTION DISTRICT MAY CONTRACT WITH THIS STATE OR THE
26 GOVERNING BODY OF THE ENTITY TO WHICH THE LOT, ACRE OR PARCEL BELONGS FOR
27 PAYMENT TO THE DISTRICT OF THE ASSESSMENT AND INTEREST AS EACH BECOMES DUE
28 AND PAYABLE, AND THE STATE OR THE GOVERNING BODY SHALL PERFORM THE CONTRACT.

29 48-2840. Payment of costs by flood protection district

30 THE BOARD MAY ORDER IN THE RESOLUTION OF INTENTION THAT ALL OR PART OF
31 THE COST OF ANY WORK BE PAID FROM THE TREASURY OF THE FLOOD PROTECTION
32 DISTRICT FROM THE FUND IT DESIGNATES WHEN SO ORDERED. THE BOARD, IN MAKING UP
33 THE ASSESSMENT, SHALL FIRST DEDUCT FROM THE WHOLE COST SUCH PART AS HAS BEEN
34 ORDERED PAID FROM THE TREASURY OR OTHER SOURCE OF MONIES AND ASSESS THE
35 REMAINDER OF THE COSTS AND EXPENSES PROPORTIONATELY, ACCORDING TO THE
36 BENEFITS RECEIVED, ON THE LOTS, ACRES AND PARCELS TO BE ASSESSED FOR THE
37 WORK.

38 48-2841. Proposals; bond; award of contract; entering into
39 contract; liability on bond

40 A. IF THE BOARD INVITES PROPOSALS FOR CONSTRUCTION OF THE FLOOD
41 PROTECTION FACILITY, WRITTEN AND SIGNED PROPOSALS SHALL BE SUBMITTED
42 ACCOMPANIED BY A BOND PAYABLE TO THE FLOOD PROTECTION DISTRICT IN AN AMOUNT
43 OF AT LEAST TEN PER CENT OF THE AGGREGATE PROPOSAL.

44 B. THE BOARD, IN OPEN SESSION, SHALL EXAMINE AND PUBLICLY DECLARE THE
45 PROPOSALS. THE BOARD MAY REJECT ANY PROPOSALS IF DEEMED FOR THE PUBLIC GOOD

1 AND SHALL REJECT ALL PROPOSALS OTHER THAN THE LOWEST AND BEST PROPOSAL OF A
2 RESPONSIBLE BIDDER. THE BOARD MAY AWARD THE CONTRACT FOR THE IMPROVEMENT TO
3 THE LOWEST AND BEST RESPONSIBLE BIDDER AT THE PRICE NAMED IN THAT BIDDER'S
4 PROPOSAL ON A MOTION, NOTED IN ITS MINUTES, APPROVED BY A MAJORITY VOTE OF
5 ITS MEMBERS.

6 C. NOTICE OF THE AWARD OF THE CONTRACT SHALL BE PUBLISHED TWICE IN A
7 DAILY NEWSPAPER OR ONCE IN A WEEKLY OR SEMIWEEKLY NEWSPAPER OF GENERAL
8 CIRCULATION IN THE COUNTY.

9 D. AT ANY TIME WITHIN FIFTEEN DAYS AFTER THE DATE OF THE FIRST
10 PUBLICATION, A PERSON HAVING AN INTEREST IN A LOT LIABLE FOR AN ASSESSMENT
11 WHO CLAIMS THAT ANY OF THE PREVIOUS ACTS OR PROCEEDINGS RELATING TO THE
12 IMPROVEMENT ARE IRREGULAR, ILLEGAL OR FAULTY MAY FILE WITH THE BOARD A
13 WRITTEN NOTICE SPECIFYING IN WHAT RESPECT THE ACTS AND PROCEEDINGS ARE
14 IRREGULAR, ILLEGAL OR FAULTY. ALL OBJECTIONS TO ANY ACT OR PROCEEDING THAT
15 ARE TAKEN BEFORE THE FIRST PUBLICATION OF THE NOTICE OF THE AWARD ARE DEEMED
16 TO BE WAIVED, EXCEPT AS TO MATTERS DIRECTLY AFFECTING THE AUTHORITY OF THE
17 BOARD. IF THE BOARD FINDS ANY OBJECTION TO BE VALID, IT MAY ABANDON THE
18 PROCEEDINGS, CORRECT OR MODIFY ANY PORTION OF THE PROCEEDINGS OR PROCEED AS
19 IN THE FIRST INSTANCE.

20 E. WITHIN TWENTY DAYS AFTER THE DATE OF THE FIRST PUBLICATION, IF NO
21 OBJECTIONS HAVE BEEN FILED, THE SUCCESSFUL BIDDER SHALL ENTER INTO A CONTRACT
22 TO MAKE THE IMPROVEMENT ACCORDING TO ITS BID. IF OBJECTIONS ARE FILED BUT
23 ARE REJECTED BY THE BOARD, THE CONTRACT SHALL BE ENTERED INTO WITHIN FIVE
24 DAYS AFTER RECEIVING NOTICE FROM THE BOARD OF THAT REJECTION. IF THE BIDDER
25 FAILS TO ENTER INTO THE CONTRACT WITHIN THAT PERIOD, THE BOARD, WITHOUT
26 FURTHER PROCEEDINGS, SHALL ADVERTISE FOR PROPOSALS IN THE SAME MANNER AS FOR
27 THE INITIAL PROPOSALS. A BIDDER WHO FAILS TO ENTER INTO THE CONTRACT IS
28 LIABLE ON THE BIDDER'S BOND ACCOMPANYING THE PROPOSAL FOR ALL COSTS AND
29 DAMAGES INCURRED AND SUSTAINED BY REASON OF THE FAILURE TO ENTER INTO THE
30 CONTRACT.

31 F. IF THE BOARD DETERMINES THAT CONTRACTING SERVICES FOR CONSTRUCTION
32 OF THE FLOOD PROTECTION FACILITY SHOULD BE PROCURED PURSUANT TO TITLE 34,
33 CHAPTER 6, ARTICLE 1, BEFORE EXECUTING THE CONTRACT PURSUANT TO SECTION
34 34-607, THE BOARD SHALL FORMALLY APPROVE THE FORM OF CONTRACT AND AWARD THE
35 CONTRACT TO THE SELECTED PERSON OR FIRM ON A MOTION, NOTED IN ITS MINUTES AND
36 APPROVED BY A MAJORITY VOTE OF ITS MEMBERS.

37 G. NOTICE OF THE AWARD OF THE CONTRACT SHALL BE PUBLISHED TWICE IN A
38 DAILY NEWSPAPER OR ONCE IN A WEEKLY OR SEMIWEEKLY NEWSPAPER OF GENERAL
39 CIRCULATION IN THE COUNTY. THE NOTICE OF AWARD SHALL SPECIFICALLY STATE THE
40 TYPE OF CONTRACT AND THAT THE CONTRACT WAS PROCURED PURSUANT TO TITLE 34,
41 CHAPTER 6, ARTICLE 1 WITHOUT COMPETITIVE BIDDING.

42 H. AT ANY TIME WITHIN FIFTEEN DAYS AFTER THE DATE OF THE FIRST
43 PUBLICATION, ANY PERSON OR ENTITY THAT PARTICIPATED IN THE PROCUREMENT
44 PROCESS THAT SELECTED THE PERSON OR ENTITY TO WHOM SUCH CONTRACT WAS AWARDED,
45 OR A PERSON HAVING AN INTEREST IN A LOT LIABLE FOR AN ASSESSMENT WHO CLAIMS

1 THAT ANY OF THE PREVIOUS ACTS OR PROCEEDINGS RELATING TO THE IMPROVEMENT OR
2 THE PROCUREMENT OF CONTRACTING SERVICES ARE IRREGULAR, ILLEGAL OR FAULTY, MAY
3 FILE WITH THE BOARD A WRITTEN NOTICE SPECIFYING IN WHAT RESPECT THE ACTS AND
4 PROCEEDINGS ARE IRREGULAR, ILLEGAL OR FAULTY. ALL OBJECTIONS TO ANY ACT OR
5 PROCEEDING THAT ARE NOT MADE BEFORE THE NOTICE OF THE AWARD ARE DEEMED TO BE
6 WAIVED, EXCEPT AS TO MATTERS DIRECTLY AFFECTING THE AUTHORITY OF THE BOARD.
7 IF THE BOARD FINDS ANY OBJECTION TO BE VALID, IT MAY ABANDON THE PROCEEDINGS,
8 CORRECT OR MODIFY ANY PORTION OF THE PROCEEDINGS OR PROCEED AS IN THE FIRST
9 INSTANCE.

10 I. WITHIN TWENTY DAYS AFTER THE DATE OF THE FIRST PUBLICATION, IF NO
11 OBJECTIONS HAVE BEEN FILED, THE PERSON OR ENTITY TO WHOM CONTRACTING SERVICES
12 HAVE BEEN AWARDED SHALL ENTER INTO A CONTRACT TO CONSTRUCT THE FLOOD
13 PROTECTION FACILITY ACCORDING TO ITS PROPOSAL. IF OBJECTIONS ARE FILED BUT
14 ARE REJECTED BY THE BOARD, THE CONTRACT SHALL BE ENTERED INTO WITHIN FIVE
15 DAYS AFTER RECEIVING NOTICE FROM THE BOARD OF THE REJECTION. IF THE PERSON
16 OR ENTITY TO WHOM CONTRACTING SERVICES HAVE BEEN AWARDED FAILS TO ENTER INTO
17 THE CONTRACT WITHIN THAT PERIOD, THE BOARD WITHOUT FURTHER PROCEEDINGS SHALL
18 EITHER ADVERTISE FOR PROPOSALS, NEGOTIATE A CONTRACT WITH ONE OF THE OTHER
19 PERSONS OR ENTITIES THAT PARTICIPATED IN THE PROCUREMENT PROCESS OR
20 REINITIATE THE PROCESS FOR PROCUREMENT OF CONTRACTING SERVICES PURSUANT TO
21 TITLE 34, CHAPTER 6, ARTICLE 1. THE PERSON OR ENTITY THAT FAILED TO ENTER
22 INTO THE CONTRACT IS LIABLE FOR ALL COSTS AND DAMAGES INCURRED AND SUSTAINED
23 BY REASON OF THAT FAILURE.

24 48-2842. Form and execution of contract; supervision of
25 performance; surety

26 A. THE DISTRICT SHALL MAKE ALL WRITTEN CONTRACTS AND RECEIVE ALL BONDS
27 AUTHORIZED BY THIS ARTICLE. THE CONTRACTS SHALL SPECIFY A REASONABLE TIME
28 FOR COMPLETING THE FLOOD PROTECTION FACILITY.

29 B. THE BOARD MAY PRESCRIBE A FORM FOR THE CONTRACT THAT IS NOT
30 INCONSISTENT WITH THIS ARTICLE OR WITH TITLE 34, CHAPTER 6, ARTICLE 1, IF
31 THAT PROCUREMENT METHOD IS CHOSEN, AND FIX A REASONABLE TIME FOR COMPLETING
32 THE WORK, WHICH MAY BE EXTENDED BY THE BOARD.

33 C. THE WORK SHALL BE DONE UNDER THE DIRECTION OF THE BOARD OR ITS
34 ENGINEER. THE BOARD MAY PRESCRIBE ADMINISTRATIVE RULES RELATING TO
35 SUPERVISING THE WORK. THE BOARD MAY APPOINT ITS ENGINEER OR A SUITABLE
36 PERSON TO TAKE CHARGE OF AND DIRECT THE CONSTRUCTION OF A FLOOD PROTECTION
37 FACILITY ON BEHALF OF THE DISTRICT. THE PERSON APPOINTED IS RESPONSIBLE FOR
38 SUPERVISING FULFILLMENT OF THE CONTRACT. THE BOARD SHALL FIX THE
39 COMPENSATION FOR THAT PERSON.

40 D. IF THE WORK IS NOT PERFORMED WITH DILIGENCE, THE BOARD, AFTER A
41 HEARING AND SERVICE OF NOTICE ON THE CONTRACTOR AND THE CONTRACTOR'S SURETY,
42 MAY PRESCRIBE THOSE TERMS AND CONDITIONS AS IT DEEMS PROPER BEFORE PERMITTING
43 THE CONTRACTOR TO CONTINUE WITH THE WORK.

44 E. IF THE BOARD FINDS THAT THE CONTRACTOR IS UNABLE TO CONTINUE WITH
45 THE WORK OR TO PERFORM THE WORK ACCORDING TO THE CONTRACT, THE BOARD SHALL

1 HOLD THE CONTRACTOR IN DEFAULT AND MAKE DEMAND ON THE SURETY TO ACT ACCORDING
 2 TO THE CONTRACT AND THE TERMS AND CONDITIONS OF THE PERFORMANCE BOND. IF THE
 3 SURETY FAILS TO ACT WITHIN SIXTY DAYS AFTER THE DATE OF THE WRITTEN NOTICE,
 4 THE BOARD MAY ORDER THAT PROPOSALS BE RECEIVED FROM OTHER CONTRACTORS TO
 5 COMPLETE THE WORK. AFTER RECEIVING PROPOSALS, THE BOARD MAY AWARD THE
 6 CONTRACT TO THE LOWEST RESPONSIBLE BIDDER. IF, AFTER RECEIVING THE NEW
 7 PROPOSALS, THE COST OF COMPLETION EXCEEDS THE MONIES OR BONDS AVAILABLE FOR
 8 PAYMENT, THE BOARD SHALL MAKE A DEMAND ON THE DEFAULTING CONTRACTOR'S SURETY
 9 FOR PAYMENT OF THE DIFFERENCE WITHIN TWENTY DAYS AFTER THE MAILING OF THE
 10 NOTICE. IF THE SURETY IS REPRESENTED BY AN ATTORNEY-IN-FACT, THE DEMAND MAY
 11 BE SERVED ON THE ATTORNEY-IN-FACT OR AT THE SURETY'S PRINCIPAL OFFICE IN THIS
 12 STATE. IF THE SURETY HAS NO ATTORNEY-IN-FACT AND NO PRINCIPAL OFFICE IN THIS
 13 STATE, THE DEMAND SHALL BE SERVED ON THE DIRECTOR OF INSURANCE. THE DEMAND
 14 MAY NOT EXCEED THE PENAL SUM OF THE PERFORMANCE BOND. MONIES COLLECTED FROM
 15 THE SURETY SHALL BE USED TO PAY ANY ADDED COSTS OF COMPLETING THE WORK. ANY
 16 DIFFERENCE BETWEEN THE ACTUAL COSTS OF THE WORK AND THE AMOUNT ASSESSED SHALL
 17 BE ADVANCED BY THE DISTRICT, WHICH SHALL USE ITS CONTINGENCY FUND OR ANY
 18 OTHER AVAILABLE MONIES TO PAY THE NEW CONTRACTOR. THE DISTRICT SHALL
 19 REIMBURSE ITSELF FROM THE AMOUNTS PAID BY THE FORMER CONTRACTOR OR ITS SURETY
 20 OR FROM ASSESSMENTS AND BONDS WHEN MONIES BECOME AVAILABLE. ALL ADDITIONAL
 21 COSTS OF THE WORK NOT RECEIVED FROM THE ORIGINAL CONTRACTOR'S SURETY SHALL
 22 ULTIMATELY BE ASSESSED AGAINST THE BENEFITING PARCELS OF PROPERTY.

23 48-2843. Bonds required from contractor

24 BEFORE EXECUTING THE CONTRACT, THE CONTRACTOR SHALL FILE WITH THE
 25 DISTRICT THE BOND OR BONDS AS REQUIRED UNDER THIS ARTICLE OR TITLE 34,
 26 CHAPTER 6, ARTICLE 1, AS APPLICABLE.

27 48-2844. Diagrams of property affected; estimate of benefits;
 28 assessment; warrant

29 A. THE ENGINEER SHALL MAKE DUPLICATE DIAGRAMS OF THE PROPERTY IN THE
 30 ASSESSMENT DISTRICT. THE DIAGRAMS SHALL SHOW EACH SEPARATE LOT, ACRE OR
 31 PARCEL OF LAND IN THE ASSESSMENT DISTRICT, NUMBERED CONSECUTIVELY, AND THE
 32 LOCATION OF THE LOT, ACRE OR PARCEL IN RELATION TO THE WORK PROPOSED TO BE
 33 DONE.

34 B. AFTER THE BOARD HAS APPROVED, CERTIFIED AND DATED THE DIAGRAMS,
 35 THEY SHALL BE FILED IN THE OFFICE OF THE FLOOD PROTECTION DISTRICT.

36 C. AT ANY TIME AFTER A CONTRACT HAS BEEN EXECUTED FOR CONSTRUCTION OF
 37 THE FLOOD PROTECTION FACILITY, THE DISTRICT SHALL ESTIMATE OR CAUSE TO BE
 38 ESTIMATED ON THE LOTS, ACRES OR PARCELS IN THE ASSESSMENT DISTRICT THE
 39 BENEFITS ARISING OR EXPECTED TO ARISE FROM THE WORK. THE DISTRICT SHALL THEN
 40 MAKE AN ASSESSMENT TO COVER THE AMOUNT DUE FOR THE WORK PERFORMED AND
 41 SPECIFIED IN THE CONTRACT FOR CONSTRUCTION OF THE FLOOD PROTECTION FACILITY,
 42 INCLUDING INCIDENTAL EXPENSES, AND SHALL ASSESS AGAINST THE LOTS THE TOTAL
 43 AMOUNT OF THE COSTS AND EXPENSES OF THE WORK. IN SO DOING THE DISTRICT SHALL
 44 ASSESS THE TOTAL AMOUNT ON THE SEVERAL LOTS, ACRES OR PARCELS, EACH
 45 RESPECTIVELY IN PROPORTION TO THE RESPECTIVE BENEFITS TO BE RECEIVED.

1 D. THE ASSESSMENT SHALL COVER THE AMOUNT DUE FOR THE WORK PERFORMED AS
2 SPECIFIED IN THE CONTRACT AND SHALL INCLUDE INCIDENTAL EXPENSES. THE
3 INCIDENTAL EXPENSES SHALL INCLUDE THE COMPENSATION OF THE DISTRICT ENGINEER
4 FOR ITS WORK, THE COST OF PRINTING, ADVERTISING AND POSTING, THE COMPENSATION
5 OF THE PERSON APPOINTED BY THE DISTRICT TO TAKE CHARGE OF AND DIRECT THE
6 CONSTRUCTION OF THE IMPROVEMENT ON BEHALF OF THE FLOOD PROTECTION DISTRICT,
7 THE EXPENSES OF MAKING THE ASSESSMENT, THE INTEREST ON THE BONDS FOR A PERIOD
8 NOT LONGER THAN THE EXPECTED PERIOD OF CONSTRUCTION AND ONE YEAR BEYOND, ALL
9 COSTS INCURRED BY THE DISTRICT WITH RESPECT TO THE FLOOD PROTECTION FACILITY,
10 OR THE PROCEEDINGS LEADING TO THE ASSESSMENT THAT MUST BE REPAID TO THE
11 COUNTY AND ALL LEGAL AND FINANCIAL FEES, EXPENSES AND COSTS INCURRED IN
12 DRAFTING THE PROCEEDINGS AND IN THE SALE OF THE BONDS, INCLUDING ANY INITIAL
13 ISSUE DISCOUNT ON THE BONDS. THE AMOUNT OF INCIDENTAL EXPENSES SHALL BE
14 SETTLED AND ALLOWED BY THE BOARD, OR THE DISTRICT'S REPRESENTATIVE
15 SPECIFICALLY APPOINTED BY THE BOARD FOR SUCH PURPOSE, ON PRESENTATION OF
16 ITEMIZED BILLS.

17 E. THE ASSESSMENT SHALL BRIEFLY REFER TO THE CONTRACT AND SHALL NAME
18 THE CONTRACTOR AND THE CONTRACTOR'S SURETY, THE AMOUNT TO BE PAID PURSUANT TO
19 THE CONTRACT AND ALL INCIDENTAL EXPENSES, THE AMOUNT OF EACH ASSESSMENT, THE
20 NAME OF THE OWNER OF EACH LOT, ACRE OR PARCEL, IF KNOWN, AND IF UNKNOWN THE
21 WORD "UNKNOWN" SHALL BE WRITTEN OPPOSITE THE NUMBER OF THE ASSESSMENT,
22 TOGETHER WITH THE AMOUNT ASSESSED ON THE LOT. THE DISTRICT SHALL LIST THE
23 NAMES OF OWNERS AS SHOWN ON THE MOST RECENT CERTIFIED COUNTY ASSESSMENT ROLL
24 AND ANY OTHER PERSON OF WHOM THE DISTRICT HAS PERSONAL KNOWLEDGE THAT MAY BE
25 THE OWNER OF THE RESPECTIVE LOT. THE ASSESSMENTS ON THE LOTS SHALL BE
26 CONSECUTIVELY NUMBERED, AND THE DIAGRAM SHALL BE NUMBERED TO CORRESPOND WITH
27 THE ASSESSMENT NUMBERS.

28 F. A WARRANT SHALL BE ATTACHED TO THE ASSESSMENT SIGNED BY THE
29 CHAIRPERSON OR PRESIDENT OF THE BOARD, WHICH SHALL BE SUBSTANTIALLY IN THE
30 FOLLOWING FORM:

31 I (NAME OF CHAIRPERSON OR PRESIDENT OF BOARD OF
32 DIRECTORS), OF THE (NAME OF FLOOD PROTECTION DISTRICT AND
33 COUNTY), STATE OF ARIZONA, BY VIRTUE OF THE AUTHORITY VESTED IN
34 ME AS CHAIRPERSON OR PRESIDENT, AUTHORIZE AND EMPOWER (NAME OF
35 PERSON NOMINATED BY THE BOARD TO COLLECT THE SEVERAL ASSESSMENTS
36 BY MAKING CASH DEMANDS ON THE OWNERS), OR HIS OR HER AGENTS, TO
37 DEMAND AND RECEIVE THE SEVERAL ASSESSMENTS ON THE ASSESSMENT
38 ATTACHED, AND THIS SHALL BE HIS OR HER WARRANT FOR THE SAME.

39 G. THE WARRANT AND ASSESSMENT SHALL BE RECORDED IN THE DISTRICT'S
40 OFFICE AND ONE DIAGRAM SHALL BE FILED NOT EARLIER THAN THE DATE OF EXECUTION
41 OF THE CONTRACT. WHEN RECORDED, THE SEVERAL AMOUNTS ASSESSED ARE A FIRST
42 LIEN ON THE LOTS ASSESSED SUBJECT ONLY TO THE LIEN FOR GENERAL PROPERTY
43 TAXES, BUT COEQUAL WITH PRIOR SPECIAL ASSESSMENTS, FOR A PERIOD BEGINNING ON
44 THE DATE OF RECORDING AND TERMINATING ON THE DATE THE ASSESSMENT AGAINST THE
45 RESPECTIVE LOT IS PAID IN FULL. THE RECORDING CONSTITUTES NOTICE TO ALL

1 PERSONS INTERESTED IN THE CONTENTS OF THE RECORD. THE BOARD ALSO MAY ORDER
2 THAT NOTICE OF THE RECORDING OF THE ASSESSMENT IN THE OFFICE OF THE DISTRICT
3 BE RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY IN WHICH THE
4 FLOOD PROTECTION DISTRICT IS LOCATED. IF NOTICE IS RECORDED IN THE OFFICE OF
5 THE COUNTY RECORDER, IT SHALL BE SUFFICIENT TO STATE THE BOUNDARIES OF THE
6 ASSESSMENT DISTRICT OR ATTACH A MAP SHOWING THE BOUNDARIES AND REFER TO THE
7 ACTUAL RECORDING OF THE WARRANT AND ASSESSMENT AT THE DISTRICT'S OFFICE.
8 FAILURE TO FILE SUCH A NOTICE WITH THE COUNTY RECORDER SHALL NOT INVALIDATE
9 EITHER THE ASSESSMENT OR THE WARRANT AND SHALL NOT DIMINISH IN ANY MANNER THE
10 SCOPE OF THE NOTICE AFFORDED BY RECORDING THE WARRANT AND ASSESSMENT IN THE
11 DISTRICT OFFICE.

12 48-2845. Delivery of warrant and assessment to contractor;
13 demand for payment; release of assessments; review
14 of assessment

15 A. AFTER THE WARRANT AND ASSESSMENT ARE RECORDED PURSUANT TO SECTION
16 48-2844, THEY SHALL BE DELIVERED TO THE PERSON CHARGED BY THE BOARD WITH THE
17 DUTY OF MAKING DEMANDS FOR THE PAYMENT, TOGETHER WITH ONE OF THE DIAGRAMS.
18 BY VIRTUE OF THE WARRANT, THAT PERSON MAY DEMAND AND RECEIVE THE AMOUNT OF
19 THE SEVERAL ASSESSMENTS.

20 B. THE PERSON CHARGED BY THE BOARD SHALL CALL ON THE PERSON ASSESSED,
21 EITHER IN PERSON OR BY MAIL IF THE PERSON CAN CONVENIENTLY BE FOUND, AND
22 DEMAND PAYMENT, AND IF PAID THE PERSON NOMINATED BY THE BOARD SHALL PROVIDE A
23 RECEIPT. THE RECEIPT, WHEN PRESENTED TO THE DISTRICT, CONSTITUTES AN ORDER
24 TO IT TO RELEASE THE ASSESSMENT. A COPY OF THE RECEIPT SHALL BE KEPT ON FILE
25 AT THE DISTRICT OFFICE.

26 C. THE PERSON NOMINATED BY THE BOARD SHALL PROMPTLY NOTIFY THE
27 DISTRICT OF ALL PAYMENTS RECEIVED, AND THE DISTRICT SHALL RELEASE ALL
28 ASSESSMENTS THAT HAVE BEEN FULLY PAID. IF THE NAME OF THE OWNER OF THE LOT
29 IS STATED ON THE ASSESSMENT AS "UNKNOWN", THE PERSON NOMINATED BY THE BOARD
30 SHALL DEMAND PAYMENT OF A PERSON IN POSSESSION OF THE LOT. IF SOMEONE IS IN
31 POSSESSION, THE DEMAND MAY BE MADE EITHER BY MAIL, IF A MAILING ADDRESS FOR
32 THE PERSON IN POSSESSION CAN BE DETERMINED, OR IN PERSON. IF THE PREMISES
33 ARE UNOCCUPIED OR THE PERSON IN POSSESSION CANNOT BE FOUND, THE DEMAND IS
34 UNNECESSARY.

35 D. THE WARRANT SHALL BE RETURNED TO THE BOARD WITHIN THIRTY DAYS AFTER
36 ITS DATE ENDORSED WITH "RETURN", SIGNED BY THE PERSON NOMINATED BY THE BOARD,
37 VERIFIED ON OATH AND STATING THE NATURE AND CHARACTER OF THE DEMAND, WHETHER
38 ANY ASSESSMENTS REMAIN WHOLLY OR PARTIALLY UNPAID AND THE AMOUNT OF ANY
39 UNPAID ASSESSMENTS. IN THE ABSENCE OF FRAUD OR BAD FAITH, THE VERIFIED
40 STATEMENT OF THE PERSON MAKING THE RETURN IS CONCLUSIVE PROOF THAT THE DEMAND
41 FOR PAYMENT WAS MADE ON EACH OWNER OR EACH PERSON IN POSSESSION OF EACH LOT,
42 ACRE OR PARCEL OF PROPERTY AS REQUIRED BY THIS SECTION. THE BOARD SHALL
43 RECORD THE RETURN IN THE MARGIN OF THE RECORD OF THE WARRANT AND ASSESSMENT.
44 AFTER RETURN OF THE ASSESSMENT AND WARRANT, ALL AMOUNTS REMAINING DUE SHALL
45 DRAW INTEREST AT THE MAXIMUM RATE SPECIFIED IN THE RESOLUTION OF INTENTION

1 UNTIL PAID OR, ON THE ISSUANCE OF BONDS, AT THE RATE SPECIFIED IN THE BONDS
2 PAYABLE FOR THE SEMIANNUAL PERIODS SPECIFIED IN THE BONDS, NOTWITHSTANDING
3 THAT THE INSTALLMENTS OF ASSESSMENTS MAY BE DUE AT DATES EARLIER THAN THE
4 DATES INSTALLMENTS OF PRINCIPAL OR INTEREST ARE PAYABLE ON THE BONDS.

5 E. ON RECORDING THE ASSESSMENT AND WARRANT, THE BOARD SHALL FIX A TIME
6 WHEN IT WILL HEAR AND CONSIDER THE ASSESSMENT AND THE PROCEEDINGS TAKEN,
7 WHICH SHALL BE AT LEAST TWENTY DAYS AFTER THE DATE OF THE RECORDING. THE
8 BOARD SHALL PUBLISH NOTICE OF THE HEARING FOR FIVE DAYS IN A DAILY NEWSPAPER
9 OR TWO TIMES IN A WEEKLY OR SEMI-WEEKLY NEWSPAPER OF GENERAL CIRCULATION IN
10 THE FLOOD PROTECTION DISTRICT. THE BOARD SHALL SEND NOTICES OF THE TIME AND
11 PLACE OF THE HEARING BY FIRST CLASS MAIL AT LEAST TWENTY DAYS BEFORE THE
12 HEARING DATE TO THE CONTRACTOR AT THE ADDRESS SHOWN IN THE CONTRACT, AND TO
13 ALL PERSONS OWNING REAL PROPERTY AFFECTED BY THE ASSESSMENTS AS THEIR NAMES
14 AND ADDRESSES APPEAR ON THE LAST CERTIFIED PROPERTY TAX ROLL. ON REQUEST OF
15 THE DISTRICT, THE COUNTY ASSESSOR SHALL PROVIDE THE NAMES AND ADDRESSES AS
16 SHOWN ON THE LAST CERTIFIED TAX ROLL. IF NO ADDRESS APPEARS FOR A PERSON ON
17 THE LAST CERTIFIED TAX ROLL, NO NOTICE NEED BE MAILED TO THAT PERSON. THE
18 CHAIRPERSON OF THE BOARD SHALL MAKE AN AFFIDAVIT OF THE MAILING AND SHALL
19 STATE THAT THE PERSONS TO WHOM NOTICES WERE MAILED CONSTITUTE ALL PERSONS
20 WHOSE NAMES AND ADDRESSES APPEAR ON THE TAX ROLL AS OWNING PROPERTY IN THE
21 AREA ASSESSED OR THE ASSESSMENT DISTRICT, AS APPLICABLE. THE AFFIDAVIT IS
22 CONCLUSIVE PROOF THAT NOTICE WAS MAILED TO EACH PERSON TO WHOM NOTICE IS
23 REQUIRED TO BE MAILED. THE FAILURE TO RECEIVE NOTICE DOES NOT CONSTITUTE ANY
24 JURISDICTIONAL DEFECT INVALIDATING A DISTRICT PROCEEDING OR ASSESSMENT IF
25 NOTICE HAS BEEN GIVEN PURSUANT TO THIS SUBSECTION.

26 F. BEFORE THE TIME FIXED FOR THE HEARING, ANY OWNER, CONTRACTOR OR
27 OTHER PERSON DIRECTLY INTERESTED IN THE WORK OR IN THE ASSESSMENT WHO HAS ANY
28 OBJECTION TO THE AMOUNT OR LEGALITY OF THE ASSESSMENT OR TO ANY OF THE
29 PREVIOUS PROCEEDINGS, OR WHO CLAIMS THAT THE WORK HAS NOT BEEN PERFORMED
30 ACCORDING TO THE CONTRACT, MAY FILE A WRITTEN NOTICE BRIEFLY SPECIFYING THE
31 GROUNDS OF THE OBJECTION. AT THE TIME FIXED FOR THE HEARING OR AT ANY TIME
32 WITHIN TEN DAYS AFTER THE ORIGINAL HEARING DATE, DURING WHICH THE HEARING MAY
33 BE POSTPONED, THE BOARD SHALL HEAR AND CONSIDER ALL SUCH OBJECTIONS. THE
34 DECISION OF THE BOARD IS FINAL AND CONCLUSIVE ON ALL PERSONS ENTITLED TO
35 OBJECT AS TO ALL ERRORS, INFORMALITIES AND IRREGULARITIES THAT THE BOARD MAY
36 HAVE REMEDIED OR AVOIDED AT ANY TIME DURING THE PROCEEDINGS.

37 G. AFTER THE HEARING, IF THE BOARD OF DIRECTORS FINDS THAT THE
38 ASSESSMENT HAS NOT YET BEEN FAIRLY APPORTIONED, IT SHALL MODIFY THE AMOUNTS
39 OF THE SEVERAL ASSESSMENTS AND MAY ORDER THAT THE ASSESSMENT BE RECOMPUTED IF
40 IT FINDS THAT THE BENEFITS TO ANY LOTS DO NOT EQUAL THE AMOUNT OF THE LOTS'
41 ASSESSMENTS. WHEN RECOMPUTING THE ASSESSMENT, THE BOARD SHALL LEVY THE
42 REASSESSMENTS ACCORDING TO THE BENEFITS DERIVED, NOTWITHSTANDING THAT THE
43 REDUCTION OF ANY ASSESSMENT MAY CAUSE A CORRESPONDING INCREASE IN OTHER
44 ASSESSMENTS.

1 H. AT ANY TIME WITHIN ONE YEAR AFTER THE DATE THE DISTRICT FILES THE
2 CERTIFICATE OF SUBSTANTIAL COMPLETION AS PROVIDED IN SECTION 48-2851,
3 SUBSECTION G, ANY MEMBER OF THE BOARD OF DIRECTORS, ANY OWNER OR ANY PERSON
4 CLAIMING AN INTEREST IN ANY ASSESSED LOT MAY FILE A WRITTEN NOTICE WITH THE
5 CLERK STATING THAT THE WORK HAS NOT BEEN PERFORMED SUBSTANTIALLY ACCORDING TO
6 THE RESOLUTION OF INTENTION OR THE PLANS, SPECIFICATIONS AND CONTRACT FOR
7 CONSTRUCTION OF THE FLOOD PROTECTION FACILITY. THE NOTICE SHALL STATE IN
8 PARTICULAR THE CONTRACTOR'S FAILURE TO PERFORM AND MAY ALSO STATE, IF
9 APPLICABLE, ANY REQUESTED REDUCTION IN THE ASSESSMENT OF ANY ONE OR MORE
10 PARCELS DUE SOLELY TO THE FAILURE OF SUCH PERFORMANCE. THE NOTICE SHALL
11 STATE THE NAME AND ADDRESS OF THE PERSON FILING THE NOTICE AND SHALL DESCRIBE
12 THE PERSON'S INTEREST IN LAND SUBJECT TO ASSESSMENT, IF APPLICABLE.

13 I. ON RECEIPT OF A NOTICE PURSUANT TO SUBSECTION H OF THIS SECTION,
14 THE BOARD OF DIRECTORS SHALL SET A DATE FOR A HEARING ON THE NOTICE. THE
15 BOARD OF DIRECTORS SHALL GIVE NOTICE OF THE HEARING TO THE CONTRACTOR, THE
16 CONTRACTOR'S SURETY, THE PERSON APPOINTED TO TAKE CHARGE OF AND DIRECT THE
17 WORK AND ALL PERSONS WHOSE NAMES AND ADDRESSES APPEAR IN THE NOTICE. THE
18 CLERK SHALL PUBLISH A NOTICE OF THE HEARING TWICE IN A NEWSPAPER OF GENERAL
19 CIRCULATION IN THE COUNTY.

20 J. AT THE HEARING, THE BOARD SHALL DETERMINE WHETHER THE WORK WAS
21 COMPLETED ACCORDING TO THE RESOLUTION OF INTENTION, THE PLANS, SPECIFICATIONS
22 AND CONTRACT FOR CONSTRUCTION OF THE FLOOD PROTECTION FACILITY AND ANY
23 CORRECTIONS OR ALTERATIONS OF THE PLANS DEEMED NECESSARY. IF THE BOARD
24 DETERMINES THAT THE WORK HAS NOT BEEN SO COMPLETED, IT SHALL ORDER THE
25 CONTRACTOR TO COMPLETE THE WORK, SET A REASONABLE TIME FOR COMPLETION AND
26 RECESS THE HEARING UNTIL THE DATE SET FOR COMPLETION. IF, AT THE DATE SET TO
27 RECONVENE THE HEARING, THE EVIDENCE SHOWS THAT THE WORK IS THEN COMPLETED,
28 THE BOARD SHALL ENTER THOSE FINDINGS ON ITS MINUTES. IF THE BOARD DETERMINES
29 THAT THE CONTRACTOR IS MAKING A GOOD FAITH ATTEMPT TO COMPLETE THE WORK, IT
30 MAY CONTINUE THE COMPLETION DATE AND RECESS THE HEARING TO A LATER DATE. IF,
31 AT THE HEARING OR AT ANY RECESSED HEARING, THE BOARD OF DIRECTORS FINDS THAT
32 THE CONTRACTOR REFUSES TO COMPLETE OR IS INCAPABLE OF COMPLETING THE WORK,
33 THE BOARD SHALL ORDER AND THE DISTRICT'S ATTORNEY SHALL BRING AN ACTION
34 AGAINST THE CONTRACTOR AND ITS SURETY TO COLLECT SUCH AMOUNTS OR CAUSE SUCH
35 PERFORMANCE AS IS NECESSARY TO COMPLETE THE WORK.

36 K. IF THE BOARD DETERMINES THAT FOR ANY REASON THE WORK CANNOT BE
37 COMPLETED AND NO RECOVERY CAN BE MADE AGAINST THE CONTRACTOR OR THE
38 CONTRACTOR'S SURETY, THE BOARD MAY RECOMPUTE THE ASSESSMENT, TAKING INTO
39 CONSIDERATION THE EFFECT THE CONTRACTOR'S FAILURE TO PERFORM MAY HAVE HAD ON
40 THE ACTUAL BENEFITS DERIVED FROM THE IMPROVEMENT, AND REDUCE SOME OR ALL
41 ASSESSMENTS TO REFLECT THE REDUCED BENEFITS. IF THE ASSESSMENTS ARE REDUCED,
42 THE DISTRICT SHALL ASSUME AS A CONTINGENT LIABILITY ANY DIFFERENCE BETWEEN
43 THE AMOUNTS THEREAFTER RECEIVED ON THE SEMIANNUAL ASSESSMENT PAYMENTS AND THE
44 AMOUNTS OF PRINCIPAL AND INTEREST THEREAFTER DUE ON THE BONDS. THE

1 ASSUMPTION OF THAT AMOUNT SHALL BE A CONTINGENT GENERAL OBLIGATION OF THE
2 DISTRICT.

3 L. ALL DECISIONS MADE CONCERNING ANY NOTICE FILED PURSUANT TO THIS
4 SECTION ARE FINAL AND CONCLUSIVE AS TO THE PERSONS FILING THE NOTICE, THE
5 CONTRACTOR AND THE CONTRACTOR'S SURETY AND AS TO THE ALLEGED DEFECT, OR
6 DEFECTS, IN THE WORK. AFTER A RULING ON ANY ALLEGED DEFECT, OR DEFECTS, IN
7 THE WORK, THE BOARD SHALL NOT CONSIDER OR HEAR A LATER NOTICE CONCERNING THE
8 SAME DEFECT, WHETHER OR NOT FILED BY A PERSON OTHER THAN THE PERSON FILING
9 THE ORIGINAL NOTICE.

10 M. AFTER THE WORK IS COMPLETED, THE DISTRICT SHALL FILE A RECOMPUTED
11 ASSESSMENT BASED ON THE ACTUAL QUANTITIES DETERMINED BY THE ENGINEER TO HAVE
12 BEEN CONSTRUCTED OR INSTALLED, OR THE ACTUAL COST OF THE ACQUISITION,
13 TOGETHER WITH THE KNOWN INCIDENTAL EXPENSES PAID TO THAT DATE AND THE
14 ITEMIZED ESTIMATED INCIDENTAL EXPENSES REMAINING TO BE PAID. THE ENGINEER
15 NEED NOT RECOMPUTE EACH INDIVIDUAL ASSESSMENT BUT SHALL DETERMINE THE AMOUNT
16 OF THE INCREASE OR DECREASE TO BE ASSESSED AND SHALL FILE A SUPPLEMENTAL
17 STATEMENT WITH THE CLERK STATING THE RATIO OF THE DIFFERENCE BETWEEN THE
18 CONTRACTOR'S BID AND THE RECAPITULATED AMOUNT AND ORDERING THAT EACH
19 ASSESSMENT BE INCREASED OR DECREASED BY THAT RATIO. IF THE TOTAL ASSESSMENT
20 IS DECREASED, THE TREASURER SHALL CREDIT THE AMOUNT OF THE DECREASE
21 PROPORTIONATELY ON THE ASSESSMENTS REMAINING UNPAID AND RETURN TO THE OWNER,
22 IF THE OWNER CAN BE LOCATED, THAT PORTION OF EACH ASSESSMENT PREVIOUSLY PAID
23 IN CASH THAT REPRESENTS AN EXCESS PAYMENT.

24 48-2846. Action against property owner to collect assessment

25 A. IF THE OWNER OF A LOT, ACRE OR PARCEL OF PROPERTY THAT RECEIVED AN
26 ASSESSMENT FILES A REQUEST THAT NO BONDS BE ISSUED AGAINST THE OWNER'S LOT,
27 AT ANY TIME AFTER THIRTY-FIVE DAYS FROM THE DATE OF THE WARRANT, THE DISTRICT
28 MAY SUE THE OWNER OF THE LOT, ACRE OR PARCEL ASSESSED AND RECOVER THE AMOUNT
29 OF AN ASSESSMENT REMAINING UNPAID WITH INTEREST AT THE MAXIMUM RATE SPECIFIED
30 IN THE RESOLUTION OF INTENTION UNTIL PAID OR FORECLOSE THE LIEN OF THE
31 ASSESSMENT.

32 B. IF PERSONAL DEMAND HAS BEEN MADE AND THE OWNER HAS REFUSED TO PAY
33 THE ASSESSMENT SO DEMANDED, THE DISTRICT MAY RECOVER REASONABLE ATTORNEY
34 FEES.

35 C. ONLY ONE ACTION SHALL BE BROUGHT TO FORECLOSE LIENS ARISING UNDER A
36 SINGLE PROCEEDING AGAINST THE SAME DEFENDANT.

37 D. THE WARRANT, ASSESSMENT AND DIAGRAM, WITH THE AFFIDAVIT OF DEMAND
38 AND NONPAYMENT, ARE PRIMA FACIE EVIDENCE OF THE REGULARITY AND CORRECTNESS OF
39 THE ASSESSMENT AND OF THE PRIOR PROCEEDINGS AND ACTS OF THE BOARD ON WHICH
40 THE WARRANT, ASSESSMENT AND DIAGRAM ARE BASED AND ARE ALSO EVIDENCE OF THE
41 RIGHT OF THE DISTRICT TO RECOVER.

42 48-2847. Invalidity of liens or bonds; extent of validity;
43 means to secure interest of persons damaged

44 A. IF THE LIEN OF AN ASSESSMENT OR REASSESSMENT OR OF A BOND ISSUED TO
45 REPRESENT THE AMOUNT ASSESSED ON ANY LOT IS HELD INVALID BY A COURT BECAUSE A

1 PORTION OF THE IMPROVEMENT ORDERED WAS NOT WITHIN THE POWER OF THE BOARD TO
2 ORDER OR WAS NOT PROPERLY EMBRACED IN THE CONTRACT FOR THE WORK OR IN THE
3 ASSESSMENT MADE TO COVER THE EXPENSES, THE DISTRICT OR THE HOLDER OF A BOND
4 SECURED BY SUCH ASSESSMENT IS ENTITLED TO A JUDGMENT DETERMINING WHAT PORTION
5 OF THE ASSESSMENT IS LEGAL. THE DISTRICT, WITHIN SIXTY DAYS AND PURSUANT TO
6 THE DIRECTIONS OF THE JUDGMENT, SHALL ISSUE A NEW ASSESSMENT FOR AN AMOUNT
7 THE COURT FINDS IS THE REASONABLE VALUE OF THE PORTION OF THE IMPROVEMENT
8 LEGALLY AUTHORIZED BY THE PROCEEDINGS. THIS AMOUNT SHALL BE REASSESSED
9 AGAINST THE PROPERTY IN THE SAME MANNER AND WITH THE SAME EFFECT AS PROVIDED
10 FOR ISSUING THE ORIGINAL ASSESSMENT, AND MAY BE ENFORCED AS AN ORIGINAL
11 ASSESSMENT.

12 B. IF THE LIEN OF AN ASSESSMENT OR OF A BOND ISSUED FOR AN ASSESSMENT
13 AMOUNT IS HELD INVALID BY A COURT FOR ANY CAUSE ARISING AFTER THE AUTHORITY
14 OF THE BOARD ATTACHES TO ORDER THE WORK, OR IF THE LIEN IS DEFEATED OR HELD
15 INVALID FOR ANY CAUSE, AND IT ALSO APPEARS THAT THE OWNER OF THE PROPERTY AT
16 THE TIME THAT THE NOTICE OF THE AWARD OF THE CONTRACT WAS PUBLISHED HAD
17 PERSONAL KNOWLEDGE OF THE INTENTION TO ORDER THE AWARD OF THE CONTRACT AND
18 HAS NOT FILED AN OBJECTION TO THE AWARD OF THE CONTRACT, THE DISTRICT SHALL
19 RECOVER A JUDGMENT CONFIRMING THE LIEN OF THAT ASSESSMENT ON THE LOT, ACRE OR
20 PARCEL COVERED BY THE ASSESSMENT IN AN AMOUNT THE COURT FINDS THE LOT, ACRE
21 OR PARCEL TO HAVE ACTUALLY BENEFITED FROM THE FLOOD PROTECTION FACILITY, NOT
22 EXCEEDING THE AMOUNT THAT WOULD HAVE BEEN PROPERLY ASSESSED AGAINST THE LOT.

23 48-2848. Correctness of assessment; reallocation of assessment

24 A. AFTER AN ASSESSMENT HAS BEEN APPROVED BY THE BOARD, ALL PERSONS
25 HAVING AN INTEREST IN ANY LOT ASSESSED MAY REQUEST THE BOARD IN WRITING TO
26 MODIFY OR CORRECT AN ASSESSMENT. THE BOARD MAY ORDER SUCH A MODIFICATION OR
27 CORRECTION OF THE ASSESSMENT, ON THE RECORD, TOGETHER WITH THE DATE IT IS
28 MADE. THE MODIFICATION OR CORRECTION UNDER THIS SUBSECTION DOES NOT AFFECT
29 THE RIGHTS OF PERSONS UNDER THE ASSESSMENT WHO HAVE NOT JOINED IN THE
30 REQUEST.

31 B. THE BOARD MAY REALLOCATE ALL OR PART OF AN ASSESSMENT AS FOLLOWS:

32 1. THE BOARD SHALL PREPARE A LIST OF ALL ASSESSMENTS TO BE
33 REALLOCATED, INCLUDING:

34 (a) THE ASSESSMENT NUMBER AND LEGAL DESCRIPTION OF AND THE AMOUNT
35 ASSESSED ON EACH AFFECTED PARCEL BEFORE THE REALLOCATION.

36 (b) THE ASSESSMENT NUMBER AND LEGAL DESCRIPTION OF EACH AFFECTED
37 PARCEL AND THE NAME AND ADDRESS OF THE OWNER AS SHOWN ON THE MOST RECENT TAX
38 ROLL.

39 (c) THE AMOUNT TO BE ASSESSED ON EACH PARCEL AFTER REALLOCATION.

40 2. THE BOARD SHALL PREPARE AN AMENDMENT TO THE ASSESSMENT DIAGRAM
41 REFLECTING THE NEW ASSESSMENT NUMBERS AND PARCEL BOUNDARIES.

42 3. THE BOARD SHALL MAIL A NOTICE TO EACH OWNER OF AN AFFECTED PARCEL
43 SHOWING THE PROPOSED REALLOCATION AND STATING THAT THE OWNER MAY FILE A
44 WRITTEN OBJECTION TO THE REALLOCATION WITHIN TWENTY DAYS AFTER THE NOTICE WAS
45 MAILED.

1 4. IF NO OBJECTIONS ARE RECEIVED WITHIN TWENTY DAYS AFTER THE NOTICE
2 IS MAILED, THE BOARD MAY APPROVE THE PROPOSED REALLOCATION. IF TIMELY
3 OBJECTIONS ARE RECEIVED, THE BOARD SHALL HOLD A HEARING ON THE OBJECTIONS.
4 THE BOARD SHALL MAIL NOTICE OF THE HEARING TO ALL AFFECTED OWNERS AT LEAST
5 TEN DAYS BEFORE THE HEARING. AT THE HEARING, THE OBJECTING PARTIES SHALL
6 PRESENT EVIDENCE SUPPORTING THEIR OBJECTIONS. AFTER THE HEARING, THE BOARD
7 SHALL RULE ON ALL OBJECTIONS RECEIVED AND MAY APPROVE THE PROPOSED
8 REALLOCATION OR MAY MAKE CHANGES TO THE REALLOCATION AS THE BOARD CONSIDERS
9 NECESSARY, AND APPROVE THE REALLOCATION AS CHANGED. THE BOARD SHALL ALSO
10 APPROVE THE AMENDMENT TO THE ASSESSMENT DIAGRAM AS SUBMITTED OR WITH CHANGES
11 THE BOARD CONSIDERS TO BE NECESSARY.

12 5. THE BOARD SHALL ISSUE AN ORDER ON THE RECORD APPROVING THE
13 REALLOCATED ASSESSMENT AND AMENDED ASSESSMENT DIAGRAM.

14 6. THE AMOUNT ASSESSED IMMEDIATELY AFTER THE REALLOCATION SHALL BE
15 EQUAL TO THE AMOUNT ASSESSED IMMEDIATELY BEFORE THE REALLOCATION.

16 7. AS A CONDITION TO REALLOCATION, THE BOARD MAY REQUIRE THE AFFECTED
17 PROPERTY OWNERS TO PAY THE COSTS OF REALLOCATION, INCLUDING ENGINEERING AND
18 LEGAL COSTS, OR MAY INCLUDE THE COSTS IN THE AMOUNT ASSESSED AGAINST THE
19 AFFECTED PARCELS. THE COSTS ARE DUE AND PAYABLE AS PART OF THE NEXT
20 INSTALLMENT OF THE ASSESSMENT.

21 48-2849. Issuance of improvement bonds; fund for payment of
22 bonds

23 A. THE BOARD MAY DETERMINE THAT IMPROVEMENT BONDS SHALL BE ISSUED FOR
24 THE COST AND EXPENSE OF THE FLOOD PROTECTION FACILITY. THE BONDS SHALL BE
25 ISSUED IN THE NAME OF THE FLOOD PROTECTION DISTRICT BUT SHALL BE MADE PAYABLE
26 ONLY FROM THE SPECIAL FUND COLLECTED BY THE FLOOD PROTECTION DISTRICT FROM
27 SPECIAL ASSESSMENTS LEVIED AND ASSESSED ON THE LOTS, ACRES OR PARCELS
28 FRONTING ON THE FLOOD PROTECTION FACILITY OR, IF AN ASSESSMENT DISTRICT HAS
29 BEEN CREATED BY THE RESOLUTION OF INTENTION FOR THE WORK, ON THE LOTS
30 INCLUDED IN THE ASSESSMENT DISTRICT.

31 B. ALL AMOUNTS COLLECTED FROM THE SPECIAL ASSESSMENTS SHALL BE PLACED
32 IN THE SPECIAL FUND AND SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN PAYMENT
33 OF THE PRINCIPAL AND INTEREST OF THE BONDS.

34 48-2850. Description of improvement bonds in resolution and
35 notices

36 A. IF THE BOARD DETERMINES THAT IMPROVEMENT BONDS SHALL BE ISSUED, IT
37 SHALL STATE THIS IN THE RESOLUTION OF INTENTION FOR THE WORK AND SHALL
38 SPECIFY THE MAXIMUM RATE OF INTEREST THE BONDS MAY BEAR. A SIMILAR
39 DESCRIPTION OF THE BONDS SHALL BE INSERTED IN ALL NOTICES OF THE PROCEEDINGS
40 REQUIRED TO BE PUBLISHED, POSTED OR MAILED AND A NOTICE THAT THE BONDS WILL
41 BE PAID FROM A SPECIAL FUND COLLECTED IN NOT MORE THAN FORTY ANNUAL
42 INSTALLMENTS FROM THE ASSESSMENTS REMAINING UNPAID AT THE DATE OF THE
43 ISSUANCE OF THE BONDS OR THIRTY DAYS AFTER THE DATE OF THE WARRANT, OR FIVE
44 DAYS AFTER THE DECISION OF THE BOARD ON AN OBJECTION TO THE ASSESSMENT.

1 B. ALL OTHER PROCEEDINGS FOR THE WORK UP TO AND INCLUDING THE APPROVAL
2 OF THE ASSESSMENT BY THE BOARD, INCLUDING DEMAND FOR PAYMENT OF THE SEVERAL
3 ASSESSMENTS AND THE RETURN AND RECORDING, SHALL BE CONDUCTED AS PROVIDED IN
4 THIS ARTICLE.

5 48-2851. List of unpaid assessments; issuance of bonds;
6 denominations; due date; certificate of completion

7 A. AFTER THE PRESCRIBED TIME FROM THE DATE OF THE WARRANT HAS EXPIRED
8 AND AFTER THE FLOOD PROTECTION DISTRICT HAS RECORDED THE RETURN, THE BOARD
9 SHALL MAKE AND CERTIFY A COMPLETE LIST OF ALL UNPAID ASSESSMENTS.

10 B. IF ANY PERSON, BEFORE CERTIFICATION OF THE LIST, PRESENTS TO THE
11 BOARD AN AFFIDAVIT THAT THE PERSON IS THE OWNER OF A LOT ON THE LIST,
12 ACCOMPANIED BY THE CERTIFICATE OF A SEARCHER OF RECORD THAT THE PERSON IS THE
13 OWNER OF RECORD, AND NOTIFIES THE BOARD, IN WRITING, THAT THE OWNER DESIRES
14 NO BOND TO BE ISSUED FOR THE ASSESSMENT ON THE LOT, THE ASSESSMENT SHALL NOT
15 BE INCLUDED IN THE LIST AND SHALL REMAIN COLLECTIBLE AS PROVIDED IN THIS
16 ARTICLE. THE FAILURE TO FILE THE NOTICE BARS ANY DEFENSE AGAINST THE BONDS
17 EXCEPT FOR THE DEFENSE THAT THE BOARD DID NOT HAVE AUTHORITY TO ISSUE THE
18 BONDS.

19 C. THE CLERK SHALL PRESENT THE LIST TO THE DISTRICT AT ITS NEXT
20 MEETING AFTER THE RETURN HAS BEEN RECORDED. AT ANY TIME AFTER AWARDED A
21 CONTRACT FOR CONSTRUCTION OR ACQUISITION, THE DISTRICT, BY RESOLUTION, MAY
22 DIRECT IMPROVEMENT BONDS TO BE ISSUED IN AN AMOUNT THAT DOES NOT EXCEED THE
23 AMOUNT OF UNPAID ASSESSMENTS AS MAY BE SHOWN ON THE CERTIFIED LIST OF UNPAID
24 ASSESSMENTS. THE RESOLUTION SHALL PRESCRIBE THE MAXIMUM NUMBER AND
25 DENOMINATION OF THE BONDS AND THE TIMES WHEN PAYABLE, WHICH SHALL BE FIXED SO
26 THAT AN APPROXIMATELY EQUAL AMOUNT OF PRINCIPAL IS PAID EACH YEAR OR ANY
27 APPROXIMATELY EQUAL AGGREGATE AMOUNT OF PRINCIPAL AND INTEREST IS PAID EACH
28 YEAR UNTIL THE WHOLE AMOUNT IS PAID. THE BONDS SHALL MATURE IN A PERIOD THAT
29 DOES NOT EXCEED FORTY YEARS AND THREE MONTHS FROM THE DATE OF THE BONDS. THE
30 DENOMINATIONS OF THE BONDS SHALL BE FIXED BY THE DISTRICT. THE DISTRICT MAY
31 PROVIDE IN THE FORM OF THE BOND FOR REDEMPTION BEFORE MATURITY BY GIVING SUCH
32 NOTICE AS THE DISTRICT DETERMINES TO BE REASONABLE AND BY THE PAYMENT OF A
33 PREMIUM AT REDEMPTION IF THE DISTRICT DETERMINES A PREMIUM IS ADVISABLE. THE
34 RESOLUTION SHALL ALSO FIX THE PLACE, IF ANY, OTHER THAN THE OFFICE OF THE
35 TREASURER, AT WHICH THE BONDS AND THE INTEREST ARE PAYABLE. THE BOARD MAY
36 ISSUE FULLY REGISTERED BONDS AND MAY ISSUE BONDS REGISTERED IN THE NOMINEE
37 NAME OF A DEPOSITORY TO PROVIDE FOR A BOOK ENTRY SYSTEM TO ADMINISTER
38 REGISTRATION AND PAYMENT OF PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE
39 BONDS.

40 D. THE BONDS SHALL BE ISSUED AS OF THE DATE DETERMINED BY THE DISTRICT
41 AND SHALL BEAR INTEREST FROM THAT DATE AT THE RATE NOT TO EXCEED THAT
42 SPECIFIED IN THE RESOLUTION OF INTENTION. THE BONDS SHALL HAVE SEMIANNUAL
43 INTEREST PAYMENTS, THE FIRST OF WHICH IS PAYABLE ON JANUARY 1 OR JULY 1, AS
44 THE CASE MAY BE, OCCURRING AT LEAST NINETY DAYS AFTER THE LATER OF THE DATE

1 OF THE BOND OR THE EXPECTED COMPLETION OF THE WORK, AND SHALL BE FOR THE
2 INTEREST ACCRUED AT THAT TIME.

3 E. THE DUE DATE OF ALL BONDS IS JANUARY 1 OR JULY 1, AS STATED ON THE
4 FACE OF THE BONDS, IN THE YEARS IN WHICH THEY BECOME DUE, RESPECTIVELY.

5 F. THE DISTRICT MAY SELL THE BONDS AT PUBLIC OR PRIVATE SALE AT A
6 PRICE AT, ABOVE OR BELOW PAR AND ACCRUED INTEREST TO THE DATE OF PAYMENT, AND
7 AT AN INTEREST RATE NOT EXCEEDING THE MAXIMUM RATE SET IN THE RESOLUTION OF
8 INTENTION. IF DEEMED NECESSARY BY THE BOARD OF DIRECTORS, A RESERVE FUND MAY
9 BE ESTABLISHED EITHER WITH PROCEEDS FROM THE SALE OF THE BONDS OR BY
10 INCREASING THE COLLECTIONS OF THE ANNUAL INSTALLMENTS OF PRINCIPAL UP TO THE
11 FIRST TEN YEARS THE BONDS ARE OUTSTANDING, OVER AND ABOVE THE AMOUNTS
12 REQUIRED TO PAY MATURING PRINCIPAL ON THE BONDS. THE MONIES IN THE RESERVE
13 FUND MAY BE USED ONLY TO CURE DEFICITS IN THE PRINCIPAL AND INTEREST FUNDS OR
14 TO PAY INTEREST AND PRINCIPAL ON THE FINAL MATURITY OR MATURITIES OF THE
15 BONDS.

16 G. THE PROCEEDS FROM THE SALE OF THE BONDS SHALL BE PLACED IN A
17 SPECIAL FUND TO BE HELD BY THE TREASURER AND TO BE USED TO PAY INCIDENTAL
18 EXPENSES AND PAYMENTS FOR CONSTRUCTION OR ACQUISITION. IF THE DISTRICT
19 RECEIVED SEALED PROPOSALS FOR CONSTRUCTION OF THE FLOOD PROTECTION FACILITY,
20 THE PROCEEDS FROM THE SALE OF THE BONDS SHALL BE USED TO MAKE SEMIMONTHLY OR
21 MONTHLY PAYMENTS TO THE CONTRACTOR ON A BASIS OF NINETY PER CENT OF THE VALUE
22 OF THE WORK ACTUALLY PERFORMED AS ESTIMATED BY THE DISTRICT OR ENGINEER
23 EMPLOYED FOR THOSE PURPOSES TO AND INCLUDING THE FIFTEENTH OR LAST DAY OF
24 EACH CALENDAR MONTH. THE BALANCE SHALL BE PAID AFTER THE DISTRICT HAS
25 RECORDED A CERTIFICATE OF SUBSTANTIAL COMPLETION OF THE FLOOD PROTECTION
26 FACILITY, IN THE SAME MANNER AS THE RECORDING OF THE ASSESSMENT. THE
27 DISTRICT SHALL RECORD THE CERTIFICATE ONLY AFTER THE WORK HAS BEEN COMPLETED
28 TO ITS SATISFACTION.

29 H. IF CONTRACTING SERVICES ARE PROCURED PURSUANT TO TITLE 34, CHAPTER
30 6, ARTICLE 1, PROCEEDS FROM THE SALE OF THE BONDS SHALL BE USED TO MAKE
31 MONTHLY PROGRESS PAYMENTS TO THE CONTRACTOR AS PROVIDED IN SECTION 34-607,
32 SUBSECTION B EXCEPT THAT NOTWITHSTANDING ANY PROVISION OF TITLE 34, THE
33 BALANCE SHALL BE PAID AFTER THE WORK IS SUBSTANTIALLY COMPLETE AND THE
34 DISTRICT HAS RECORDED A CERTIFICATE OF SUBSTANTIAL COMPLETION OF THE FLOOD
35 PROTECTION FACILITY IN THE SAME MANNER AS THE RECORDING OF THE ASSESSMENT.

36 I. THE DISTRICT SHALL MAIL A COPY OF THE NOTICE OF COMPLETION TO EACH
37 PROPERTY OWNER IN THE SAME MANNER AS THE NOTICE OF HEARING ON THE ASSESSMENT.
38 PENDING USE OF THE BOND PROCEEDS, THE TREASURER MAY INVEST THE PROCEEDS IN
39 ANY INVESTMENTS FOR WHICH SINKING FUNDS OF THIS STATE MAY BE INVESTED OR IN A
40 POOLED INVESTMENT FUND ESTABLISHED UNDER SECTION 35-326, EXCEPT THAT IF BOND
41 ANTICIPATION NOTES HAVE BEEN ISSUED, THE BOND PROCEEDS OR SO MUCH AS IS
42 NECESSARY SHALL BE USED TO REDEEM THE NOTES.

43 J. REFUNDING BONDS MAY BE ISSUED TO REFUND ALL OR ANY PORTION OF AN
44 ISSUE OF BONDS ISSUED AND SOLD PURSUANT TO THIS SECTION IN THE MANNER
45 PRESCRIBED BY TITLE 35, CHAPTER 3, ARTICLE 4.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

48-2852. Form of bonds

A. THE BONDS SHALL BE SIGNED BY THE CHAIRMAN OR PRESIDENT OF THE BOARD, ATTESTED BY THE CLERK OR SECRETARY AND SEALED WITH THE CORPORATE SEAL OF THE DISTRICT, AND THE INTEREST COUPONS, IF ANY, SHALL BEAR THE FACSIMILE SIGNATURE OF THE CHAIRMAN AND SECRETARY OF THE DISTRICT.

B. THE BONDS SHALL BE SUBSTANTIALLY IN THE FOLLOWING FORM:

_____ FLOOD PROTECTION DISTRICT OF
_____ IMPROVEMENT BOND.

KNOW ALL MEN BY THESE PRESENTS: THAT THE _____ FLOOD PROTECTION DISTRICT OF _____ COUNTY, ARIZONA (THE "FLOOD PROTECTION DISTRICT"), A DULY ORGANIZED MUNICIPAL CORPORATION, PROMISES TO PAY AS HEREINAFTER STATED TO THE BEARER HEREOF, ON THE _____ DAY OF _____, _____, THE SUM OF _____ DOLLARS, TOGETHER WITH INTEREST ON SUCH SUM, AT THE RATE OF _____ PER CENT PER ANNUM, PAYABLE SEMIANNUALLY ON JANUARY 1 AND JULY 1 OF EACH YEAR. BOTH PRINCIPAL AND INTEREST ARE PAYABLE AT THE OFFICE OF THE _____ COUNTY TREASURER (OR PAYING AGENT) AT THE OPTION OF THE HOLDER. THE BOND IS ISSUED IN PURSUANCE OF LAW AND IS ONE OF A SERIES OF _____ BONDS OF LIKE TENOR AND DATE FOR THE TOTAL SUM OF _____ DOLLARS ISSUED FOR THAT CERTAIN IMPROVEMENT IN SUCH FLOOD PROTECTION DISTRICT CONSISTING OF _____ (BRIEFLY DESCRIBE IMPROVEMENT) _____, INITIATED BY RESOLUTION NO. _____ OF _____ FLOOD PROTECTION DISTRICT, AND IS PAYABLE ONLY OUT OF THE SPECIAL FUND TO BE COLLECTED FROM SPECIAL ASSESSMENTS IMPOSED ON THE LOTS OR PARCELS OF LAND FRONTING ON OR BENEFITED BY SUCH IMPROVEMENT. SUCH SPECIAL FUND IS SET APART BY LAW FOR THE PAYMENT OF SUCH BONDS AND CAN BE USED FOR NO OTHER PURPOSE.

IT IS HEREBY CERTIFIED AND DECLARED THAT THE IMPROVEMENT FOR WHICH THIS SERIES OF BONDS IS ISSUED IS AUTHORIZED BY LAW, THAT ALL THE ACTS, CONDITIONS AND THINGS REQUIRED TO BE DONE, PRECEDENT TO AND IN THE ISSUING OF THIS SERIES OF BONDS, HAVE BEEN DONE OR WILL BE DONE, AND PERFORMED IN REGULAR AND DUE FORM AS REQUIRED BY THE LAW OF THIS STATE AND ALL RESOLUTIONS OF THE FLOOD PROTECTION DISTRICT, THAT THE SPECIAL ASSESSMENTS OUT OF WHICH SUCH BONDS ARE TO BE PAID ARE FIRST LIENS ON THE PROPERTY ASSESSED, SUBJECT ONLY TO THE LIEN FOR GENERAL TAXES AND PRIOR SPECIAL ASSESSMENTS, AND ANY BONA FIDE PURCHASER FOR VALUE OF THIS BOND HAS THE RIGHT TO RELY ON THE RECITALS CONTAINED IN THE BOND. FOR THE ASSESSMENT OR REASSESSMENT, COLLECTION AND PAYMENT OF SUCH SPECIAL ASSESSMENTS, THE FULL FAITH AND DILIGENCE OF SUCH FLOOD PROTECTION DISTRICT ARE HEREBY IRREVOCABLY PLEDGED.

1 48-2853. Certification of unpaid assessments: payments by
2 installment: interest: payments in advance

3 A. THE BOARD, AT THE TIME IT CERTIFIES THE LIST OF UNPAID ASSESSMENTS,
4 SHALL WRITE THE WORD "CERTIFIED" ON THE RECORD OF THE ASSESSMENT OPPOSITE
5 EACH UNPAID ASSESSMENT INCLUDED IN THE LIST, AND ALL ASSESSMENTS CEASE TO BE
6 PAYABLE IN CASH AND ARE THEREAFTER PAYABLE ONLY IN EQUAL ANNUAL INSTALLMENTS
7 ON EITHER JANUARY 1 OR JULY 1, OR SEMIANNUALLY ON JANUARY 1 AND JULY 1, OF
8 EACH YEAR IN WHICH THE BONDS BECOME DUE. THE BOARD MAY PROVIDE A PLAN BY
9 WHICH THE ANNUAL INSTALLMENT PLUS AN ADDITIONAL OVER LEVY AS DETERMINED BY
10 THE BOARD TO COVER THE ANTICIPATED DELINQUENCIES IN THE COLLECTION OF THE
11 ASSESSMENT MAY BE COLLECTED IN PARTIAL PAYMENTS BEFORE THE INSTALLMENT IS
12 DUE, AND THE LIEN OF EACH ASSESSMENT ON THE PROPERTY ASSESSED IS, AND
13 REMAINS, VALID OR UNTIL THE ASSESSMENT IS FULLY PAID.

14 B. AN UNCOLLECTED INSTALLMENT SHALL BE ADDED TO THE SUCCEEDING
15 INSTALLMENT AND PAID, TOGETHER WITH INTEREST AND PENALTIES.

16 C. THE NUMBER OF INSTALLMENTS IN WHICH THE ASSESSMENT IS PAYABLE SHALL
17 CORRESPOND TO THE NUMBER OF YEARS IN WHICH THERE ARE BONDS TO BE PAID. THE
18 TOTAL NUMBER OF ANNUAL INSTALLMENTS SHALL NOT EXCEED FORTY.

19 D. ALL ASSESSMENTS NOT PAID BEFORE THE CERTIFICATION OF THE LIST OF
20 UNPAID ASSESSMENTS BEAR INTEREST FROM THE DATE OF THE WARRANT AT THE SAME
21 RATE AS THAT SPECIFIED FOR THE BONDS IN THE RESOLUTION OF INTENTION. THE
22 INTEREST IS PAYABLE ON JULY 1 AND JANUARY 1 OF EACH YEAR, IMMEDIATELY BEFORE
23 THE INTEREST BECOMES DUE ON THE BONDS. THE BOARD MAY PROVIDE A PLAN BY WHICH
24 THE INTEREST IS COLLECTED IN PARTIAL PAYMENTS BEFORE THE DATE IT BECOMES DUE.

25 E. THE BOARD MAY PROVIDE FOR RECEIVING PAYMENT OF THE INSTALLMENTS OF
26 THE ASSESSMENTS BEFORE THEY BECOME DUE AND MAY USE THE PROCEEDS TO REDEEM THE
27 BONDS PRESENTED FOR REDEMPTION BY THE BOND OWNERS OR INVEST THE PROCEEDS. NO
28 INVESTMENT OF THESE MONIES MAY BE MADE SO AS TO PREJUDICE THE PROMPT PAYMENT
29 OF THE BONDS ON THE DATE THEY BECOME DUE.

30 48-2854. Collection of assessments by taxation

31 A. THE INSTALLMENTS OF PRINCIPAL AND INTEREST ON THE BONDS SHALL BE
32 COLLECTIBLE IN THE MANNER AND BY THE OFFICERS PROVIDED BY LAW FOR THE
33 COLLECTION AND ENFORCEMENT OF STATE AND COUNTY AD VALOREM TAXES AND THE AD
34 VALOREM TAXES LEVIED BY THE DISTRICT.

35 B. THE TIME FOR PAYMENT OF THE RESPECTIVE INSTALLMENTS OF PRINCIPAL
36 AND INTEREST UNDER THE RESOLUTION SHALL BE THE LAST REGULAR DATE FOR THE
37 PAYMENT OF GENERAL TAXES OF THE DISTRICT BEFORE THE DATE AT WHICH THE
38 INSTALLMENTS OF PRINCIPAL AND INTEREST BECOME DELINQUENT. THE DELINQUENCY,
39 THE PENALTIES INCURRED FOR DELINQUENCY AND THE METHOD OF COLLECTION UNDER THE
40 RESOLUTION ARE THE SAME AS FOR GENERAL TAXES OF THE DISTRICT.

41 C. IF ANY INSTALLMENT OF AN ASSESSMENT IS NOT COLLECTED WHEN DUE, IT
42 MAY BE ADDED TO AND COLLECTED WITH ANY SUCCEEDING INSTALLMENT.

43 D. THE PROVISIONS OF TITLE 35, CHAPTER 3, ARTICLE 4.1, RELATING TO
44 SUMMARY SALE AND JUDICIAL FORECLOSURE OF PROPERTY SUBJECT TO AN ASSESSMENT,
45 MAY BE EXERCISED TO COLLECT ANY DELINQUENT ANNUAL ASSESSMENT INSTALLMENT.

1 SHALL BE EXECUTED BY THE CHAIRMAN OF THE BOARD AND ATTESTED BY THE SECRETARY.
2 THE NOTES MAY BEAR INTEREST FROM THEIR DATE AT A RATE NOT IN EXCESS OF THE
3 MAXIMUM RATE SHOWN IN THE RESOLUTION OF INTENTION. THE TERM OF THE NOTES
4 SHALL NOT BE MORE THAN SIX MONTHS BEYOND THE DATE SET FOR COMPLETION OF THE
5 CONSTRUCTION. THE BOARD MAY REPAY SUCH NOTES BEFORE MATURITY AND WITHOUT
6 PENALTY OR EXTEND THE LIFE OF THE NOTES IF THE TERM OF THE CONSTRUCTION
7 CONTRACT IS EXTENDED OR IF ANY DEFAULT IS MADE BY THE CONTRACTOR. THE NOTES
8 SHALL BE AUTHORIZED BY RESOLUTION OF THE BOARD.

9 C. THE TOTAL AMOUNT OF NOTES ISSUED FOR ANY IMPROVEMENT SHALL NOT BE
10 GREATER THAN THE AGGREGATE OF NINETY PER CENT OF THE CONTRACT PRICE AND THE
11 TOTAL ESTIMATED AMOUNT OF INCIDENTAL EXPENSES. THE NOTES SHALL BE SOLD AT
12 NOT LESS THAN PAR AT EITHER PUBLIC OR PRIVATE SALE. IF AUTHORIZED BY THE
13 BOARD, THE CHAIRMAN MAY ENTER INTO LOAN AGREEMENTS WITH THE PURCHASER OF THE
14 NOTES RELATIVE TO:

15 1. THE TIME AND PLACE OF DELIVERY.
16 2. THE SALE OF IMPROVEMENT BONDS TO THE PURCHASER OF THE NOTES IF THE
17 DISTRICT IS UNABLE TO PROCURE A PURCHASER WILLING TO PURCHASE THE BONDS WHEN
18 ISSUED.

19 3. MAKING THE DEMAND ON THE OWNERS OF PROPERTY FOR PAYMENT IN CASH.
20 4. COLLECTION OF CASH PAYMENTS FROM PERSONS WHO WANT TO PAY THEIR
21 ASSESSMENTS IN CASH AND APPLICATION OF SUCH CASH PAYMENTS TO THE REPAYMENT OF
22 THE NOTES.

23 5. PAYMENT OF AN ADDITIONAL FEE TO THE PURCHASER OF THE NOTE TO COVER
24 THE ADMINISTRATIVE EXPENSES OF THE CASH COLLECTIONS IF THE PURCHASER IS THE
25 PERSON TO WHOM CASH COLLECTIONS ARE MADE.

26 D. TO SECURE THE PAYMENT OF THE NOTES, THE LOAN AGREEMENTS MAY PROVIDE
27 FOR A COLLATERAL ASSIGNMENT TO THE PURCHASER OF THE NOTES OF ALL CASH
28 COLLECTIONS, THE WARRANT AND THE DISTRICT'S INTEREST IN THE PERFORMANCE BOND.

29 E. THE PROCEEDS FROM THE SALE OF THE NOTES SHALL BE PLACED IN A
30 SPECIAL FUND TO BE HELD BY THE TREASURER AND USED FOR PAYMENT OF INCIDENTAL
31 EXPENSES AND PAYMENTS TO THE CONSTRUCTION CONTRACTOR.

32 F. PROCEEDS FROM THE SALE OF THE NOTES SHALL BE USED TO MAKE
33 SEMIMONTHLY OR MONTHLY PAYMENTS TO THE CONTRACTOR ON A BASIS OF NINETY PER
34 CENT OF THE VALUE OF THE WORK ACTUALLY PERFORMED, AS ESTIMATED BY THE
35 ENGINEER EMPLOYED FOR SUCH PURPOSE, UP TO AND INCLUDING THE FIFTEENTH OR LAST
36 DAY OF EACH CALENDAR MONTH. THE BALANCE SHALL BE PAID TO THE CONTRACTOR
37 AFTER THE SALE OF THE BONDS SOLELY FROM THE PROCEEDS FROM THE BOND SALE, OR
38 IF BONDS EQUAL TO THE BALANCE REMAINING CANNOT BE SOLD, THE BALANCE SHALL BE
39 PAID BY DELIVERY OF A SIMILAR PRINCIPAL AMOUNT OF BONDS TO THE CONTRACTOR.

40 G. THE ISSUANCE OF BOND ANTICIPATION NOTES CONSTITUTES AN ASSIGNMENT
41 TO THE DISTRICT OF THE MONIES DUE THE CONTRACTOR UNDER THE CONSTRUCTION
42 CONTRACT.

43 H. IF BONDS ARE ISSUED TO REPRESENT ANY ASSESSMENTS REMAINING UNPAID
44 ON THE DATE THE LIST IS CERTIFIED, THE DISTRICT SHALL SELL THE BONDS AND USE
45 THE PROCEEDS TO REDEEM THE NOTES AND PAY THE BALANCE DUE TO THE CONTRACTOR.

1 I. IN ADDITION TO ANY INCIDENTAL EXPENSES INCLUDED IN THE ASSESSMENT,
2 IF BOND ANTICIPATION NOTES ARE ISSUED, THE NOTES MAY ALSO INCLUDE IN THE
3 INCIDENTAL EXPENSES ALL INTEREST ACCRUING ON THE BOND ANTICIPATION NOTES, THE
4 ADDED COSTS OF CASH COLLECTIONS, IF ANY, AND ALL LEGAL OR FINANCIAL FEES
5 INCURRED IN THE ISSUANCE AND SALE OF THE BOND ANTICIPATION NOTES.

6 J. IF BOND ANTICIPATION NOTES HAVE BEEN ISSUED AND THE CONTRACTOR HAS
7 BEEN PAID IN ACCORDANCE WITH SUBSECTION F OF THIS SECTION, THE DISTRICT SHALL
8 APPLY THE PROCEEDS COLLECTED FROM DEMANDS ON THE PROPERTY OWNERS TO THE
9 REDUCTION OF THE OUTSTANDING PORTION OF THE BOND ANTICIPATION NOTES AND, IF
10 THE NOTES HAVE BEEN PAID, TO THE CONTRACTOR TO REDUCE ANY BALANCE DUE HIM.

11 48-2860. Deficiency in collections

12 IF THERE IS A DEFICIENCY IN THE REVENUES COLLECTED FROM THE SPECIAL
13 ASSESSMENTS BY REASON OF THE INADEQUACY OF THE METHOD OF COLLECTION, THE
14 DISTRICT MAY MAKE GOOD THE DEFICIENCY, REIMBURSING ITSELF FROM THE MONIES
15 COLLECTED FROM THE INSTALLMENTS WHEN THEY ARE RECEIVED.

16 48-2861. Reallocation of assessments; public land exchange

17 IF A PARCEL OF PROPERTY THAT HAS BEEN SUBJECTED TO AN ASSESSMENT AND A
18 LIEN IS EXCHANGED TO THIS STATE OR THE UNITED STATES FOR ANOTHER PARCEL OF
19 PROPERTY IN THE FLOOD PROTECTION DISTRICT OWNED BY THIS STATE OR THE UNITED
20 STATES, AND THE PARCEL OF NEW PRIVATE PROPERTY RECEIVES SUBSTANTIALLY THE
21 SAME BENEFIT FROM THE IMPROVEMENT CONSTRUCTED AS THE PARCEL EXCHANGED TO THIS
22 STATE OR THE UNITED STATES, THE ASSESSMENT LIEN IMPOSED ON THE ORIGINAL
23 PARCEL OF PROPERTY MAY BE TRANSFERRED TO AND IMPOSED ON THE PARCEL OF NEW
24 PRIVATE PROPERTY AFTER THE OWNER OF THE NEW PRIVATE PROPERTY HAS RECEIVED A
25 MAILED NOTICE OF SUCH ASSESSMENT AND AN OPPORTUNITY TO OBJECT TO EITHER THE
26 TRANSFER OF THE ASSESSMENT LIEN TO THE NEW PRIVATE PROPERTY OR THE AMOUNT
27 ASSESSED AGAINST SUCH NEW PRIVATE PROPERTY.